TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~13.~~ 114

JOEL C. SLAUGHTER, ADMINISTRATOR OF HENRY B. SLAUGHTER, DECEASED, APPELLANT,

vs.

JULIUS GERSON.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

[redacted] — sub 37 —

FILED NOVEMBER 28, 1870.

SUPREME COURT OF THE UNITED STATES.

No. 313.

JOEL C. SLAUGHTER, ADMINISTRATOR OF HENRY B. SLAUGHTER, DECEASED, APPELLANT,

vs.

JULIUS GERSON.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

INDEX.

	Original.	Print.
Style of court	1	1
Bill of complaint	2	1
Exhibit No. 1	6	3
Exhibit No. 2	7	3
Enrollment	11	5
Exhibit No. 3	12	5
Subpœna	18	7
Marshal's return	19	8
Answer	20	8
Exhibit H. B. S., No. 1	34	13
Exhibits H. B. S., No. 2 and No. 3	35	13
Exhibit No. 4	37	14
Exhibit H. B. S., No. 5	40	16
Exhibit H. B. S., No. 6	41	16
Order denying injunction	44	17
Agreement	44	17
Agreement	45	18
Bill of supplement and review	47	19
Decree of review	50	20
Subpœna	51	20
Marshal's return	52	21
Commission to Peter Starr and Joseph W. Howe	53	21
Agreement	57	23
Agreement	58	23
Admission	59	24
Deposition of witnesses	60	24
Testimony of Jeremiah Counsellor	61	24
Testimony of William T. Richardson	90	36

	Original.	Print.
Exhibit A	99	39
Testimony of James E. Brett	100	40
Edward Richardson	108	43
Francis A. Martin	112	45
Charles J. Fisher	120	48
William H. Wood	123	49
William H. Hazard, jr	131	52
Captain John Crawford	166	65
John H. Golding	197	77
John H. Hadkins	220	86
John L. Myer	231	90
Humphrey H. Crary	241	93
Joseph J. Comstock	242	94
Andrew Craft	247	96
William Bradford	247	96
John Englis	249	97
Peter C. Schultz	252	98
Amos W. Silkworth	254	98
Horace Theall	256	99
Daniel H. Burdett	258	100
Charles Post	262	102
Charter-party	264	102
Testimony of James Lawson	268	104
Peter Tait	274	107
Lewis Stern	279	108
John H. Golding, (recalled)	289	112
Captain John Crawford, (recalled)	296	115
Julius Gerson	317	123
Backus W. Huntington	319	124
Louis Stern, (recalled)	322	125
Jeremiah Counsellor, (recalled)	323	126
John H. Golding, (recalled)	331	129
William H. Hazard, (recalled)	335	130
Commission to Frederick Pinkney	336	131
Return	339	132
Testimony of Charles Reeder	340	132
James Brannan	347	135
Joel C. Slaughter	358	139
Thomas M. Robinson	386	150
George W. Anderson	392	153
Agreement of counsel	406	158
Deposition of George W. Anderson	407	159
Deposition of John Crawford	412	161
Court's opinion	417	163
Decree	426	166
Trustees' bond	430	167
Trustees' report	431	168
Master's report	435	170
Petition and order	438	171
Master's report and statement	439	172
Appeal	441	173
Appeal bond	441	173
Citation	445	174
Clerk's certificate	447	174

1 UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States, for the fourth circuit in and for the Maryland district, begun and held at the United States court-house, in the city of Baltimore, on the first Monday in November being the 2nd day of the same month, in the year of our Lord one thousand eight hundred and sixty-eight—

Present, the Honorable William Fell Giles, judge of Maryland district; Andrew Sterrett Ridgely, esquire, attorney; Washington Bonifant, esquire, marshall; James W. Chew, clerk—

Among other were the following proceedings, to wit:

JULIUS GERSON
vs.
JOEL E. SLAUGHTER, ADMINISTRATOR OF Henry B. Slaughter.

Be it remembered that, heretofore, to wit, on the 15th day of July, in the year of our Lord eighteen hundred and sixty-four, Julius Gerson, by T. Parkin Scott and Robert C. Barry, esquires, his solicitors, came into the circuit court here and filed in court here the following bill of complaint, to wit:

Bill of complaint.

2 To the honorable the judges of the circuit court of the United States within and for the district of Maryland, sitting in equity:

Humbly complaining sheweth unto your honors, your orator, Julius Gerson, of the city, county, and State of New York, that a certain Henry B. Slaughter, of Kent County, in Maryland, being indebted unto your orator in the sum of twenty-five thousand dollars, for money lent and advanced by your orator, in the city of New York aforesaid, to him, and at his instance and request, and he, the said Henry, desiring a credit therefor of three and six months, he, the said Henry, in order to secure the payment of said debt, with interest thereon at the rate of seven per cent., such being the legal rate of interest in the State of New York, in two equal instalments of twelve thousand five hundred dollars each, at three and six months, executed and delivered to your orator his bond in the penal sum of fifty thousand dollars, conditioned for the payment of said debt and interest, in equal instalments as aforesaid, which said bond is herewith into court brought, marked Exhibit No. 1, as a part of this bill of complaint.

And your orator further sheweth that, as a condition precedent to the granting of the credit and time aforesaid for the payment of said
3 debt, the said Henry promised and agreed to give to your orator a bill of sale by way of mortgage upon two steamboats of which the said Henry claimed to be and was the owner, and which were then and are now in his possession, to wit, the steamboat called the George Law, of New York, and the steamboat called the Chester, of Baltimore; and in part execution of said promise and agreement, he, the said Henry, in the said city of New York, did, on the day and year aforesaid, to wit, on the twelfth day of April, 1864, execute, acknowledge, and deliver to your orator two several bills of sale, one for each of said steamboats, bearing date the day and year aforesaid, and each of which was ex-

ecuted, acknowledged, and delivered by him to your orator, in due form of law, before a notary public of the city, county, and State of New York aforesaid, and each of which was afterwards recorded in the office of the clerk of the superior court of Baltimore City aforesaid, on the 16th day of April, 1864, and that the said bill of sale of the steamboat "George Law" was also recorded in the United States custom-house, in New York aforesaid, on the 13th April, 1864. And your orator herewith brings the said two bills of sale into this court, marked Exhibits No. 2 and No. 3, and files the same as part of this his bill of complaint.

And your orator charges that the time limited in and by the said bond and mortgages for the payment of the first instalment of said debt, to
4 wit, of the sum of twelve thousand five hundred dollars, part of said debt, elapsed and expired on the twelfth day of July, 1864, past, but that no part thereof hath been paid, and the same remains owing, past due, and unpaid. And your orator hath applied to the said Henry for payment thereof, but he hath omitted, neglected, and refused so to do; which actings and doings of the said Henry are contrary to equity and good conscience, and tend to the great and manifest wrong and injury of your orator; and your orator is remediless in the premises at law, and only obtain relief in this honorable court, where such matters are most properly cognizable and relievable.

And your orator further charges and sheweth unto your honor that the said steamboat called the Chester is now lying in the harbor of Baltimore, and that the said steamboat called the George Law is expected to arrive here hourly, if she hath not already arrived here; but your orator believes, and apprehends, and charges it to be true, that the said Henry will remove said boats from this port, and take and place them out of the reach of your orator, and from the jurisdiction of this court into parts unknown.

In tender consideration whereof, and to the end that the said Henry B. Slaughter, who is now in the city of Baltimore aforesaid, or somewhere in the State of Maryland, may, upon his corporal
5 oath, answer this bill and every matter herein, as if the same were herein repeated and hitherto specially interrogated; and that, by decree of this court the said steamboats may be sold for the payment of your orator's said claim; and that until such sale thereof the said Henry B. Slaughter may be enjoined and restrained from removing or disposing of the said boats, or either of them; and that a receiver may be appointed to take charge thereof until the further hearing or final decree of your honor in the premises; and that your orator may have such other and further relief in the premises, as the nature and circumstances of his case may require, &c.

May it please your honors to grant unto your orator the writ of subpœna to be directed to the said Henry B. Slaughter, of Kent County, Maryland, commanding, by a certain day and under a certain pain, to be and appear in this court then and there to answer, &c., as prayed above.

And may it also please you honors to grant unto your orator the writ of injunction to be directed to the said Henry B. Slaughter, his agents and servants, commanding and enjoining him and them not to remove or dispose of the said two steamboats, or either of them, from the harbor of this city until the further order of your honor or final hearing of this cause, &c.

And may it also please your honors to appoint a receiver to take charge of said two steamboats, and each of them, until the further order

6 of your honor or final hearing of this cause, &c. And as in duty bound your orator will ever pray, &c.

T. PARKIN SCOTT,
BOB'T C. BARRY,
Sol's for Compl't.

Ordered this 15th of July, 1864, that the motion for an injunction in the above cause stand for hearing on Saturday next, the 23rd inst., at 10 o'clock a. m., provided a copy of the above bill of complaint and of this order be served on the defendant, on or before Wednesday next, the 20th inst.

WILLIAM F. GILES.

The exhibits referred to in said bill of complaint are as follows, to wit:

EXHIBIT No. 1.

Know all men by these presents that I, Henry B. Slaughter, of Kent County, in the State of Maryland, held and firmly bound unto Julius Gerson, of the city of New York, in the sum of fifty thousand dollars, lawful money of the United States of America, to be paid to the said Julius Gerson, his executors, administrators, or assigns; for
7 which payment well and truly to be made, I bind myself, my heirs, executors, and administrators, firmly by these presents, sealed with my seal, dated the 12th day of April, one thousand eight hundred and sixty-four.

The condition of the above obligation is such, that if the above-bounden Henry B. Slaughter, his heirs, executors, or administrators, shall well and truly pay, or cause to be paid, unto the above-named Julius Gerson, his executors, administrators, or assigns, the just and full sum of twenty-five thousand dollars, as follows, to wit: Twelve thousand five hundred dollars thereof on or before the 12th day of July, A. D. 1864, and twelve thousand five hundred dollars thereof on or before the 12th day of October, A. D. 1864, with interest on said principal sum from the date hereof at and after the rate of seven per cent. per annum until the said principal sum, with all *arreages* of interest thereon, shall be fully satisfied and paid, then the above obligation to be void; otherwise to remain in full force and virtue.

H. B. SLAUGHTER. [SEAL.]

Sealed and delivered in the presence of—
W. P. RICHARDSON.

EXHIBIT No. 2.

To all to whom these presents shall come:

8 Know ye that I, Henry B. Slaughter, of Kent County, in the State of Maryland, of the first part, for securing the payment of the money hereinafter mentioned, and in consideration of the sum of one dollar, duly paid by Julius Gerson, of the city, county, and State of New York, of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have bargained and sold, and by these presents do grant, bargain, and sell unto the said party of the second part, the steamboat or vessel called the George Law, of New York, and all other goods and chattels men-

tioned in the schedule hereunto annexed, and now in the port of New York, to have and to hold, all and singular, the goods and chattels above bargained and sold, or intended so to be, unto the said party of the second part, his executors, administrators, and assigns forever; and I, the said party of the first part, for myself, my heirs, executors, and administrators, all and singular, the said goods and chattels above bargained and sold unto the said party of the second part, his heirs, executors, administrators, and assigns, against me, the said party of the first part, and against all and every person or persons whomsoever, shall and will warrant and forever defend.

Upon condition that if I, the said party of the first part, shall and do well and truly pay unto the said party of the second part, his
9 executors, administrators, or assigns, the just and full sum of twenty-five thousand dollars, and interest thereon, according to the condition of a certain bond, bearing even date herewith, made by said party of the first part to the said party of the second part, then these presents shall be void.

And I, the said party of the first part, for myself, my executors, administrators, and assigns, do covenant and agree to and with the said party of the second part, his executors, administrators, and assigns, that in case default shall be made in the payment of said sum above mentioned, then it shall and may be lawful for—and I, the said party of the first part, do hereby authorize and empower—the said party of the second part, his executors, administrators, and assigns, with the aid and assistance of any person or persons, to enter my dwelling-house, store, and other premises, and such other place or places as the said goods or chattels are or may be placed, and take and carry away the said goods or chattels, and to sell and dispose of the same for the best price they can obtain; and out of the money arising therefrom to retain and pay the said sum above mentioned, and all charges touching the same, rendering the overplus (if any) unto me, or to my executors, administrators, or assigns. And until default be made in the payment of the said sum of money I am to remain and continue in the quiet and peaceable
10 possession of the said goods and chattels, and the full and free enjoyment of the same.

It is understood and agreed by and between the said parties, that the said party of the first part shall, at all times during the term in said bond mentioned, and until the said sum of twenty-five thousand dollars, and all *arreages* of interest thereon shall be fully paid, keep said steamboat "George Law," insured in some good, responsible insurance company or companies, which shall be satisfactory to said party of the second part, for the sum of thousand dollars, against fire and marine risks, and shall pay the premiums therefor, and shall assign the policies therefor to the said party of the second part; and in case at any time said premiums, or any part thereof, shall be unpaid by said party of the first part, said party of the second part may pay the same, and the amount thereof shall be added to the said principal sum, and be payable therewith by the party of the first part as a part of the condition of said bond.

In witness whereof I, the said party of the first part, have hereunto set my hand and seal, the 12th day of April, one thousand eight hundred and sixty-four.

H. B. SLAUGHTER. [SEAL.]

Sealed and delivered in presence of—(the testing clause on 1st page, & the word substantial on 7th line, 2d page, erased before execution.)

W. P. RICHARDSON.

11 STATE OF NEW YORK,
City and County of New York, ss:

I hereby certify that, on this 12th day of April, 1864, before me, personally came Henry B. Slaughter, to me known to be the same person named in and who executed the foregoing instrument, and acknowledged to me that he executed the same as his free act and deed, for the purposes therein contained.

Witness my hand and official seal the day and year aforesaid.

[SEAL.] W. P. RICHARDSON,
Notary Public in and for the City and County of New York.

Schedule referred to in the within mortgage.

No. 66.] Enrolment—permanent.

Enrolment, in conformity to an act of the Congress of the United States of America, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same."

Julius Gerson, of the city and State of New York, having taken or subscribed the oath required by said act, and having sworn that he is a citizen of the United States, sole owner of the steamboat called
12 the George Law, of N. Y., whereof is at present master, and, as he hath sworn, is a citizen of the United States, and that the said ship or vessel was built at N. Y. City, in 1852, as per copy of enrolment, No. 14, dated at this port Jan'y 23, 1863, now cancelled—original lost. And said enrollment having certified that the said ship or vessel has one deck and no mast, and that her length is 151 feet; her breadth, 22 feet $\frac{8}{12}$; her depth, 7 feet $\frac{4}{12}$; and that she measures two hundred and forty $\frac{38}{95}$ tons; and that she is square-sterned; steamboat; has a round tuck, no galleries, and head. And the said Gerson having agreed to the description and admeasurement above specified, and sufficient security having been given, according to the said act, the said steamboat has been duly enrolled at the port of New York.

Given under our hands and seals, at the port of New York, this 20 day of March, in the year one thousand eight hundred and sixty-four.

H. B. SLAUGHTER.

EXHIBIT No. 3.

To all to whom these presents shall come:

Know ye that I, Henry B. Slaughter, of Kent County, in the State of Maryland, of the first part, for securing the payment of the
13 money hereinafter mentioned, and in consideration of the sum of one dollar to me duly paid by Julius Gerson, of the city, county, and State of New York, of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have bargained and sold, and by these presents do grant, bargain, and sell unto the said party of the second part, the steamboat or vessel called the "Chester," of Baltimore, and all other goods and chattels mentioned in the schedule hereunto annexed, and now in the port of Baltimore.

To have and to hold, all and singular, the goods and chattels above bargained and sold, or intended so to be, unto the said party of the second part, his executors, administrators, and assigns forever; and I,

the said party of the first part, for myself, my heirs, executors, and administrators, all and singular, the goods and chattels above bargained and sold unto the said party of the second part, his heirs, executors, administrators, and assigns, against me, the said party of the first part, and against all and every person or persons whomsoever, shall and will warrant, and forever defend.

Upon condition, that if I, the said party of the first part, shall and do well and truly pay unto the said party of the second part, his executors, administrators, or assigns, the just and full sum of twenty-five thousand dollars, and interest thereon, according to the condition of a certain bond bearing even date herewith, made by said party of
14 the first part to the said party of the second part, then these presents shall be void.

And I, the said party of the first part, for myself, my executors, administrators, and assigns, do covenant and agree to and with the said party of the second part, his executors, administrators, and assigns, that in case default shall be made in the payment of the said sum above mentioned, that it shall and may be lawful for—and I, the said party of the first part, do hereby authorize and empower—the said party of the second part, his executors, administrators, and assigns, with the aid and assistance of any person or persons to enter my dwelling-house, store, and other premises, and such other place or places as the said goods or chattels are or may be placed, and take and carry away the said goods or chattels, and to sell and dispose of the same for the best price they can obtain, and out of the money arising therefrom, to retain and pay the said sum above mentioned, and all charges touching the same, rendering the overplus (if any) unto me, or to my executors, administrators or assigns. And until default be made in the payment of the said sum of money, I am to remain and continue in the quiet and peaceable possession of the said goods and chattels, and the full and free enjoyment of the same.

It is understood and agreed by and between the said parties, that the said party of the first part shall, at all times during the term in
15 said bond mentioned, and until the said sum of twenty-five thousand dollars, and all *arreages* of interest thereon, shall be fully paid, keep the said steamboat "Chester" insured in some good and responsible insurance company, or companies, which shall be satisfactory to said party of the second part, for the sum of fifteen thousand dollars, against fire and marine risks, and shall pay the premiums therefor, and shall assign the policies therefor to the said party of the second part. And in case at any time said premiums, or any part thereof, shall be unpaid, the said party of the second part may pay the same, and the amount thereof shall be added to the said principal sum, and be payable therewith by the party of the first part as a part of the condition of said bond.

In witness whereof I, the said party of the first part, have hereunto set my hand and seal the 12th day of April, one thousand eight hundred and sixty-four.

H. B. SLAUGHTER. [SEAL.]

Sealed and delivered in presence of—(the testing clause on 1st page erased before execution.)

W. P. RICHARDSON.

STATE OF NEW YORK,

City and County of New York, ss:

16 I hereby certify that, on this 12th day of April, 1864, before me

personally came Henry B. Slaughter, to me known to be the same person named in and who executed the foregoing instrument, and acknowledged to me that he executed the same as his free act and deed for the purposes therein contained.

Witness my hand and official seal the day and year aforesaid.

[SEAL.] W. P. RICHARDSON,

Notary Public in and for the City and County of New York.

Schedule referred to in the within mortgage.

No.] Enrolment—permanent.

Enrolment, in conformity to an act of the Congress of the United States of America, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries and for regulating the same."

having taken or subscribed the required by said act, and
17 having that citizen of the United States, owner of the ship or vessel called the , of , whereof is at present master, and, as he hath , is a citizen of the United States, and that the said ship or vessel was built at

And having certified that the said ship or vessel has deck and mast, and that her length is ; her breadth ; her depth ; and that she measures tons; and that she is square sterned, has no galleries, and head. And the said having agreed to the description and admeasurement above specified, and sufficient security having been given according to the said act, the said has been duly enrolled at the port of

Given under hand and seal at the port of this day of in the year one thousand eight hundred and .

H. B. SLAUGHTER.

18 Whereupon the court passed the following order, to wit:

Ordered, This 15th of July, 1864, that the motion for an injunction in the above cause stand for hearing on Saturday next, the 23rd inst., at 10 o'clock, a. m., provided a copy of the above bill of complaint and of this order be served on the defendant on or before Wednesday next, the 20th inst.

WILLIAM F. GILES.

Whereupon issued subpœna as prayed for in said bill in form following, to wit:

Subpœna.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

To Henry B. Slaughter, of Kent County, Maryland, greeting:

{ THE SEAL OF THE CIRCUIT COURT MARYLAND. } You are hereby commanded that, all excuses and delays set aside, you be and appear before the judges of the circuit court of the United States for the fourth circuit, in and for the Maryland district, at the clerk's office, at the United States court-room in the city of

19 Baltimore, on the first Monday in August next, to answer unto a bill of complaint of Julius Gerson of the city, county, and State of New York, in the said exhibited against you. Hereof fail not at your peril, and have you then and there this writ.

Witness the Honorable R. B. Taney, Chief Justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and sixty-four.

T. P. S.—R. C. B.

Issued 15 July, 1864.

JA'S W. CHEW,
Clk Circuit Court.

And now here at this day, to wit, the 23rd day of July, in the year last aforesaid, being a day before the return day of the foregoing subpœna, the marshal for the Maryland district, to wit, Washington Bonifant, gentleman, to whom the said subpœna was delivered to be served, made return thereof to the court here, thereon endorsed, to wit:

"Summoned.

"W. BONIFANT, *U. S. Marshal.*"

And afterwards, to wit, on the 23rd day of July, in the year last aforesaid, the said Henry B. Slaughter appeared in the circuit court here, by William Schley, esquire, his solicitor, and filed in court here the following answer, to wit:

20 In the circuit court of the United States, in and for the fourth circuit and district of Maryland.

JULIUS GERSON
vs.
HENRY B. SLAUGHTER.

The answer of Henry B. Slaughter, the defendant in the case above entitled, to the complainant's bill of complaint.

This defendant now and at all times hereafter, saving and reserving to himself all objections and exceptions to said bill, nevertheless, for answer to the same, he says that he admits the execution and delivery of the bond, marked Exhibit No. 1, of complainant's bill, and he also admits the execution and delivery of the two instruments marked, respectively, Exhibit No. 2, and Exhibit No. 3, of said bill. He also admits that the instruments last mentioned were, respectively, acknowledged and recorded, as stated in said bill. And this respondent, respectfully submits to this honorable court, the construction and legal effect of said several exhibits.

Further answering, this respondent states that it is not true, in fact, that the said complainant ever applied to this respondent, before the filing of said bill, for payment of the said sum of money, or any part thereof; although the complainant had good reason to suppose that, if this respondent had been applied to for payment, he would have
21 refused to pay, upon the ground that said bond and mortgages, (the latter termed bills of sale in said bill,) had been obtained from this respondent by fraud and deceit.

Further answering, this respondent states that he has not, and never had, the slightest intention of removing said boats, or either of them, from the port of Baltimore; much less to remove them to parts unknown, or out of the reach of the complainant, or beyond the jurisdiction of this

honorable court. The charge in that behalf in said bill is entirely unfounded.

For further answer to said bill, this respondent states that, sometime heretofore, he established a line of steamboats between the city of Baltimore and various landings on Chester River, on the eastern shore of Maryland. Some of those landings are in Kent County, and others in Queen Anne's County, of said eastern shore; and some of said landings are not, in fact, immediately on Chester River; but are situated some distance up other streams, flowing into Chester River. One of the most important of these landings is at Queen'to'n, situated on a tributary of the Chester, about two miles up from the mouth of said tributary. No steamboat, drawing more than three feet and a half *feet* of water, can reach said wharf, unless in an extraordinary high tide. This respondent had two boats in service, on said route—the Chester and the Ar-
22 row—both of which were of light draft of water. It became desirable to procure an additional boat, to be placed on said route; and it was, of course, a*n* necessary and indispensable quality that such additional boat should be of such light draft as to be suitable for the service in which she was to be employed. In all enquiries instituted for the purpose of procuring a suitable boat, this indispensable requisite was carefully mentioned. Being referred to W'm H. Hazard, jr., of New York, who, as agent for owners, had some boats for sale, this respondent, sometime prior to the 12th of March, 1864, addressed him a letter of enquiry; to which this respondent received an answer, dated at New York, Mar. 12, '64; and which answer is herewith filed, marked Exhibit H. B. S., No. 1. And in producing said Exhibit, as a part of this answer, this respondent states that "The Minnie," therein named and described, and the steamer "George Law," are one and the same vessel; "The Minnie" being her proper name, painted on the sides, whilst the "George Law" is her registered name, and is the name painted on her stern. And it will be noticed that in the description of the Minnie, it is stated in said Exhibit H. B. S., No. 1, as matter of fact, that her draft of water is 3½ feet. It is so stated, without any qualification, whatever; clearly importing, that said steamboat, when fully laden,
23 and in service did not draw more than three and a half feet of water. In consequence of this representation, and of other statements contained in said letter, this respondent visited the city of New York, accompanied by his son, Capt. Joel C. Slaughter, and by Mr. Thomas M. Robinson, a ship-carpenter. and being joined by a friend, Mr. Counseller, of Newark, New Jersey, this respondent, thus accompanied, proceeded to examine certain boats, then offered for sale, and, amongst other boats, the said steamboat George Law, otherwise called The Minnie. For the first time this respondent was then brought into personal intercourse with the complainant, the owner of said boat. This respondent fully explained to the complainant the character of the route on which your respondent proposed to place such boat as he might purchase, and especially and particularly stated to him that a boat of light draught, not exceeding three and a half feet, was required, and that a boat of greater draught would not be suitable for the service. On this point there was no room left for doubt or uncertainty. It was mentioned by this respondent repeatedly, emphatically, and in unambiguous language. It was, in fact, a vital point; and it was undoubtedly known to the complainant to be an indispensable requirement. It was quite impossible, where the boat then lay, to determine her draught with any ac-
24 curacy, or ever with an approximation to certainty, as well because the boat was not laden, as because of the surging and splashing

of the water against her sides. But the complainant stated and represented as matter of fact, in unequivocal terms, that the said boat would not, under any circumstances, draw more than three and a half feet of water, so that this respondent felt authorized and warranted to confide in the said statement and representation of the said complainant, concurring, as it did, with the representation, in this respect, contained in said letter of Mr. Hazard; and this respondent, accordingly, did confide in the said statement and representation, and believed them to be true; and on the basis of said statement and representation, and of his confidence and belief as aforesaid, this respondent made a bargain for the purchase of said boat at the price of forty thousand dollars, being, as this respondent believed, something more than her real value, but which price this respondent was willing to give, in order to supply his immediate want of a boat, suitable for said route, and adapted to the service for which she was needed. It was a part of the terms of the bargain that fifteen thousand dollars of the price was to be paid in cash within a reasonable time, and that the residue should be made payable in equal instalments at three months, and at six months, with interest, and to be secured by mortgages on said steamboat, and also on the steamer
25 Chester, belonging to this respondent. The bargain was made, at New York, on the 30th day of March, 1864, and this respondent desired and suggested that the terms of the contract should be reduced to writing. The complainant, however, said that this was unnecessary; and he called upon Mr. Counsellor, Mr. Robinson, and Capt. Joel C. Slaughter, all then being present, and repeated the terms of the agreement, embracing as one of those terms, that he guaranteed the boat not to draw more than three and a half feet of water. The bargain was, thereupon, made for said steamboat; and this respondent, thereupon, paid to the complainant, in part of the purchase-money for said boat, the sum of fifty dollars, and for which part payment gave his receipt, and which receipt is herewith produced as a part of this answer, marked H. B. S., No. 2.

Further answering, this respondent states that he then returned home and raised the required sum to make the cash payment; and having gone back again to New York the cash payment was made, and the bond and mortgages, already referred to, were executed and delivered by this respondent, next immediately after the execution and delivery of a bill of sale for said steamboat by the said complainant to this respondent. But this respondent states that, immediately before
26 the execution of any of said papers—and they were all executed on the 12th day of April, 1864—this respondent again referred to the extent of the draught of water of the said boat, stating, in effect, that he would not have her at any price if she drew, when laden, more than three and a half feet of water. Whereupon the complainant represented, with the same confidence and directness as on the former occasion, that her draught, when fully laden, would not exceed that extent; and he added, that if the boat drew more water than three and a half feet, he would not merely let this respondent have her for one thousand dollars, but would give her to this respondent for nothing. Thus reassured, and relying, as he did confidently rely, on the statement and representations of the said complainant, so often and positively made, and in the undoubted belief that they were true, this respondent made the cash payment, accepted from the complainant the bill of sale for the boat, and executed and delivered the bond and mortgages aforesaid.

Further answering, this respondent states that his only object in making said purchase of said boat was *was* to procure a suitable boat to

ply on said route, and that he would not have purchased the said boat at any price if he had not believed when he made the purchase, as
27 well at the time when the bargain was made, on the 30th of March aforesaid, as at the time the papers aforesaid were executed and delivered on the 12th of April aforesaid, that said steamboat would not draw, when fully laden, more than three and a half feet of water; and he further states that *that* this respondent did verily so believe at the several times aforesaid, because of his confidence in the statements and representations aforesaid of the said complainant, and in full reliance thereon.

Further answering, this respondent states that, at the time of said purchase, said boat was employed in running upon a route, and she was detained by the complainant (with the acquiescence of this respondent) in said service for several days, the complainant promising to account for her earnings, which, however, he has not done. She did not, therefore, arrive at Baltimore until the 22nd of April, 1864. She was placed, shortly afterwards, upon the route for which she had been purchased, and to the surprise and great disappointment of this respondent, he heard that she grounded in Chester River on the 26th of April last. This was in an attempt to reach the wharf at Queenstown. She was not fully laden, not even loaded to half her capacity. Upon full investigation, it was plain that the boat, even partially laden, drew more than three and a half feet of water; and drew, indeed, in that state, upwards of five feet of water. This respondent, thereupon, without any
28 unnecessary delay, and as early as the 30th of April last, wrote to the complainant, to Mr. Hazard, and to Mr. Counsellor. He retained no copy of his respective letters to Mr. Hazard and to Mr. Counsellor, but he did retain a copy of his letter to complainant, which is herewith produced as a part of this answer, marked Exhibit H. B. S., No. 3. No answer having been received to this communication, this respondent sent to him another letter, a copy of which is herewith filed, marked Exhibit No. 4. This respondent received no letter from the complainant in reply to either letter until several weeks had elapsed after the sending of the first letter, when this respondent received the letter herewith produced as a part of this answer, marked Exhibit H. B. S., No. 5. This letter being very unsatisfactory, and the efforts of Mr. Counsellor, acting on behalf of this respondent, being ineffectual to induce the complainant to cancel the said contract, as he ought to have done promptly and cheerfully, this respondent went, in person, to New York; and finding that he was unsucceesful in efforts to obtain a personal interview with the complainant, he sent to the complainant a communication, through the agency of highly respectable counsel in New York, a copy of which is herewith produced as a part of this answer, marked Exhibit H. B. S., No. 6. In answer to which communi-
29 cation, as this respondent has been informed and believes, an evasive, prevaricating answer was returned, declining to cancel the said contract; and the filing of this bill shews that it is the purpose and determination of the complainant to enforce it, if he can do so, regardless of justice and equity.

Further answering, this respondent states that, in consequence of the inability of the said boat to reach the wharf at Queenstown, it has been found necessary to stop her some two miles, or thereabouts, short of said wharf, and to transfer the passengers and freight at that point to another vessel; and this is not only attended with additional labor, increased expense, and loss of time, but travellers are dissatisfied, and loudly complain, and persons who would otherwise use said boat as a mode of conveyance avoid it, and find other transportation. The said boat has

also grounded at other wharfs, and is wholly unfit for use on said route, and that no compensation, by way of abatement of the price, would do justice to this respondent, and he is advised, and he respectfully insists, that the said contract should be vacated and entirely annulled, and that the only relief to which the complainant is entitled is a decree for reconveyance to him by this respondent of the said steamboat George Law, otherwise called the Minnie, on the payment by the said com-
30 plainant to this respondent of such amount as upon just accounting may be found to be due to this respondent. And this respondent here states that he paid the sum of fourteen hundred and twenty-eight dollars for insurance of said vessel, and which insurance is subsisting and in force, and has been put to other and additional expenses in consequence of the fraud and deceit practised upon him in the matter of said contract for said boat, (a detailed and particular statement of which expenses will hereafter be furnished,) and which, together with said payments of fifty dollars and fifteen thousand dollars, ought to be declared to be a lien on the said boat, and the payment of which to this respondent ought to be declared to be a lien on said boat, and the payment whereof ought to be a made a condition precedent to the conveyance of said boat by this respondent to the said complainant. And this respondent respectfully states that he is ready and willing, and he hereby offers, to account for the net earnings of said boat, and to convey the said boat to the said complainant on payment of such amount as upon just accounting, your honor, upon rescission and annulment of said contract, may adjudge to be justly due to him.

And this respondent respectfully suggests to your honor that he proposes (if it shall be found necessary for his protection from the
31 unjust and inequitable proceedings of the complainant) to file a cross-bill for the rescission of said contract, for the cancellation of said bond, and for the vacation of said mortgages, and, in which said bill, this respondent will offer to do all that, under the circumstances, justice and equity may require; and he prays that, forasmuch as the said complainant has filed the original bond and the original mortgages, the same may be impounded and retained under the control of this court until such cross-bill shall have been filed and heard and decided.

Further answering, this respondent states that, besides the deceit and fraud practised on him, by false and fraudulent representations as to the draught of water of said boat, other false and fraudulent representations were made in relation to said boat, prior to said sale, and on which this respondent confidently relied, namely, as to the speed of said boat, and the cost of the repairs, which had then recently been put on her. It was known to the complainant that this respondent believed these representations to be true; and it was also known to him that they were false; and this respondent states that the said complainant adopted, as his act, the letter of said Hazard, and affirmed the contents thereof to be true. With respect to the prayer for an in-
32 junction, this respondent says that no facts or circumstances are stated or set forth, which, as he is advised, would render such a writ either necessary or proper, even if the averments of the bill were verified by affidavit; and as respects the application for the appointment of a receiver, this respondent says that he is advised, and he respectfully insists, that no cause of any kind is shewn, nor does any reason appear, why said application should be gratified; and he respectfully prays that no injunction may be granted, and that a receiver may not be appointed.

In conclusion, this respondent states that he was induced to enter

into the contract for the purchase of said steamboat George Law, by the false, deceitful, and fraudulent representations and statements aforesaid; and that said bond and said mortgages were obtained from him by fraud, by means of the false, deceitful, and fraudulent representations aforesaid.

Further answering, this respondent states that the pretence, in said bill of complaint stated, that this respondent was indebted to the complainant for money lent and advanced by the complainant to this respondent is wholly unfounded. No transaction of any kind ever took place between the said complainant and this respondent, whereby this respondent did, or could, become indebted to the complainant
33 under any circumstances, unless the contract of sale and purchase of said boat was a valid and binding contract, and this respondent relies upon the matters hereinbefore stated for justification in saying that the same was not, and is not, a valid and binding contract.

Further answering, this respondent states that the said steamboat Chester is employed in running upon her route aforesaid; that the said steamboat George Law (otherwise called the Minnie) was temporarily withdrawn from said route, in consequence of her impressment into the service of the United States, by persons in authority, for the exigency of a military emergency; and which necessity has now ceased to exist, and the said boat has been restored. She was so impressed without any previous application to this respondent or his agent to charter or hire her; although this respondent expects and believes that a fair and reasonable compensation for her use will be made. Said steamboat whilst so impressed, was stationed at the mouth of the Gunpowder River, and has not been employed, at any time, outside of this district.

Without that, that there is any other matter or thing in the said complainant's said bill of complaint contained or stated, necessary or material to be answered unto, and not herein and hereby well
34 and sufficiently answered unto, confessed or avoided, traversed or denied, is true.

All which matters and things this respondent is ready to aver, maintain, and prove; and he prays here to be dismissed with his reasonable costs, in this behalf, most wrongfully sustained.

H. B. SLAUGHTER.

W'M SCHLEY,
Sol. for Respondent.

The exhibits referred to in the foregoing answer, are as follows, to-wit:

H. B. S., No. 1.

NEW YORK, *Mar.* 12, '64.

H. B. SLAUGHTER, Esq.,
Crumpton, Queen Ann's Co., Md.

DEAR SIR: Your favor came to hand to day, and hasten to reply. In regard to the Meta, she is 150 ft. l.; 25 ft. b.; 7½ ft. h.; 5 months old; cylinder, 28, & 8 ft. stroke; wheel, 22⁶ ft.; face, 5½ ft.; draft water, 3² ft.; speed, 14 miles per hour. Will not take less than $45,000. The Minnie is 151 ft. l.; 23 ft. b.; 7⁶ ft. h.; draft water, 3½ ft; speed, 16 miles per hour; cylinder, 35 in., & 7 ft. @ 7½ ft. stroke; has just
35 had a new boiler put in, which is completed to-day; has been thoroughly overhauled and newly painted, and is considered by

those that are competent judges, to be better than when she was launched. She is 10 years old, but was a year ago thoroughly overhauled, and then *the* laid out some $23,000 on her, besides the new boiler, painting, &c., just completed. $40,000 is the least they will sell her for; and, in my opinion, she is the cheapest boat in this harbor. As to the money part, I have no doubt but that could be arranged satisfactorily. I saw Mr. Counsellor to-day and he promised me he would write you. Please let me know about the Minnie as I have the refusal for a few days, from the owners, until I can hear from you; therefore it is important to let me know as soon as possible.

Hoping to hear from you soon, I remain, yours, truly,

W'M H. HAZARD, JR.,
192 *Front.*

EXHIBIT H. B. S., No. 2.

Received, New York, March 30th, 1864, from Henry B. Slaughter, of Kent County, Maryland, fifty dollars on account of purchase-money of steamboat "Minnie."

JULIUS GERSON.

EXHIBIT H. B. S., No. 3.

36 APRIL 30TH, 1864.

JULIUS GERSON, Esq.

SIR: The Minna arrived safe, and is now running on the line, and am very sorry that she does not suit the route on account of the draft of water; had she drawed no more, than you said she did, she would have suited, but she draws from a foot to 14 inches more. She grounded last trip in 4 ft. 8 inches water. I had her measured, and she measured 4 ft. 6 in., but she must draw even more than that to ground in 4 ft. 8 inches. Now you recollect you guaranteed her, verbally, in presence of several witnesses, to draw but 3 ft. 6 inches, or, if she drawed more, I was to have her for one thousand dollars. Will you stand to that, or will you take her back. I do not make any charge against you for deceiving me in the depth, for, I really believe, you theught what you said; but for me to have to keep her, will be a heavy loss as she don't suit the route, and have no place to put her; besides I don't wish to run any other route; perhaps you might sell her to Government, as you spoke of, to better advantage. Have you heard from Gilmore. If you recollect, the 50 dollars that I paid you when I bargained for the boat, *was* not counted in when we settled. *Has* your peaches arrived yet or not; if so, how do you like them, and what can be done in
37 way of sales in berries and peaches; let me hear from you by return mail.

Yours, respectfully,

H. B. SLAUGHTER.

EXHIBIT No. 4.

MAY 10TH, 1864.

JULIUS GERSON, Esq.

SIR: I wrote you, on the 30th of April, after the Minna had grounded in sight of my wharf; this being the first chance I had had to know anything of her draught of water, except your representation which has

turned out to be false. I stated, in my letter of 30th April, that I made no charge against you for deceiving me, for at that time I thought no man would offer to make such a contract if he did not believe what he said, but I am now of different opinion, for this reason, there is too great difference in what you represented and what she really draws. You said you had he' rebuilt a year ago. Of course, you must have had her on a dock or ways, and it is very easy to see what a boat draws when she is put on the ways. The boat does not come up to your representation in other respects, but, in any other respect, it does not affect my business as much as the depth of water; as it is, she does does not suit as well as the Arrow, because of her getting aground and disappointing the travel. The people avoid the Minna's days, and,
38 to the Chester, causing the Chester to have most of the work to do. The Arrow would not make these disappointments, as she draws a little less water than the Chester. This is also a loss, having a boat doing nothing, only laying at the wharf. I bought the Minna of you, depending wholly on your and your captain's representations, thinking she was faster than the Arrow, and more accommodations, and would satisfy the travel better as they were insisting on a faster boat in order to keep out the opposition then threatening. You represented and guaranteed her, verbally, to draw but 3½ ft. water, and said it was not necessary to have a written contract, but let the gentlemen be witnesses that were present, *which was* J. Counsellor, Capt. T. M. Robinson, and Joel C. Slaughter. You then said to them: Gentlemen, I agree to sell Mr. Slaughter the steamboat Minna, for $40,000, and guarantee her not to draw more then 3½ ft. water; if she draws over 3½ ft. water I will sell her to him for $1,000. You said also, at the time the papers were executed, that if the Minna drawed over 3½ ft. water, you would no' only let me have her for $1,000, but that you would give her to me. This you said in presence of J. Counsellor, W. P. Richardson, and J. C. Slaughter. Your captain said, on board the boat, that he measured her when she was on the ways or dock, and she only measured, from bottom of keel to the top of the metal or copper,
39 3 ft. 9 inches. Now, if his statement had *have* been true, she would have drawed about 3½ ft., as the copper or metal was about 3 inches above the water, but instead of drawing 3½ ft., when the copper is above water, she will draw between 5 and 6 ft. water. When I wrote you on 30th April, she had then grounded her first time, and being on soft bottom, her *her* keel, of course, had settled in the mud, but since then she grounded on harder bottom with not over 3 or 4 tons of freight, and the shoalest water around her was over 5 ft. Now, I contend, as you so grossly misrepresented her in her depth, and this being the principal basis of the contract, that you, as an honest man, and by the rules and custom of trade, *you* are bound to take her back and cancel or rescind the contract, pay me back my money, and all expenses including taking her to and from Baltimore, if you receive her in New York. I now ask you the question, Will you receive her in Baltimore, or shall I deliver her in New York; and I now make the demand that you take her back, cancel the mortgage or mortgages, pay back the $15,000 I paid, together with all other expenses accrued by the purchase and execution of the papers, and taking the boat to and from her destination; or, in other words, pay back all outlays that *was* caused by the purchase of the steamer Minna. As I have not received any answer to mine of 30th April, I request you to answer this on receipt, and
40 let me know what you intend to do, so that I may determine my further course in the matter. I will deliver the steamer either

in New York or Baltimore, whichever you prefer; or, if you prefer to stand to your contract, let me have her for $1,000, pay me back what I have over paid that amount, and cancel the papers, and we will let that be the end of it. I can then sell the boat and put another in her place, or let the Arrow take her place. There was one thing I forgot to name to you in mine of 30th; that was the understanding that I was to have what the Minna took in on your route, after I bought her; this I was to have had, but after I left, you would not let Joel C. Slaughter have it. This matter I want straightened; also for the fruit I sent you. Answer and oblige.

Yours, respectfully,

H. B. SLAUGHTER.

EXHIBIT H. B. S., No. 5.

NEW YORK, *May 20th*, '64.

H. B. SLAUGHTER, Esq.

DEAR SIR: The cause of the delay of this letter is, that Mr. Counsellor intended to go to Baltimore every day since, at least, 2 weeks, and promised to see you. I am sure that I hardly expected to
41 hear from you any complaint in regard to the Minna, and when I shewed your letter to Capt. Crawford and others acquainted with her, they said you were manifestly mistaken, as you had seen enough of her when here to know what you were bargaining for. I, myself, treated you conscientiously and told you that my information came from capt., engineer, &c., &c.

In regard to the $50, you are entirely right, and we will square it up at next payment.

The fruit is very good and better than any in this market that I have seen.

Yours, very truly,

JULIUS GERSON.

EXHIBIT H. B. S., No. 6.

JULIUS GERSON, Esq., *New York.*

SIR: On or about the 12th April, 1864, Henry B. Slaughter, of Kent County, Maryland, purchased of you the steamboat called the "Minnie," otherwise called the "George Law," for the price of forty thousand dollars.

He paid you the sum of $15,000 thereof in money, on delivery
42 of the bill of sale, and gave you his bond for the balance, (25,000,) and executed to you two mortgages to secure the same, viz, one on said steamboat "Minnie," and on the steamboat "Chester."

You stated and represented to said Slaughter, prior to said sale, that said steamboat "Minnie," did not and would not draw more than three and one-half feet of water, when fully loaded, and he purchased her, relying solely on such representation, he stating distinctly to you, prior to said sale, the route on which he intended to use her, and the depth of water at the places he intended to visit and trade at with said steamboat, and that he did not want and would not purchase her, if she drew more than three and a half feet of water.

Said Slaughter found, in using said steamboat, immediately after said sale, that your said representations as to her draft of water, were untrue; that with less than one-half her capacity of cargo, she would

draw over five feet of water, and that she was consequently entirely unfit for said route, and for said Slaughter's use; that she was unable to go to the principal and most profitable landings on said route, of all which, said Slaughter immediately notified you, and requested
43 you to cancel to rescind said sale.

Now, therefore, said Henry B. Slaughter, by Torrence, Spaulding and Richardson, his attorneys, for that purpose duly retained and empowered, hereby demand that you return to him the said sum of fifteen thousand dollars, and that you cancel and surrender to him, his said bond and the mortgages above mentioned, and place him in the same position, in all respects as if said sale had not taken place, and that said sale be in all things rescinded, cancelled, and set aside.

And he hereby offers to cancel and return to you said bill of sale of said steamboat, or to reconvey her to you, and to deliver said steamboat to you forthwith, in as good condition as she was in when you delivered her to him, and in all respects to place you in the same position, as if said sale had not been made, and he consents on his part to rescind said sale.

Dated New York, July 8th, 1864.

Yours, &c.,

TORRENCE, SPAULDING & RICHARDSON,
Att'ys for Henry B. Slaughter.

And afterwards, to wit, on the 27th day of July, in the year
44 last aforesaid, the court here passed the following order, to wit:

In the circuit court, Maryland district. In equity, April term, 1864.

JULIUS GERSON
vs.
HENRY B. SLAUGHTER.

The motion standing for hearing and being submitted, after argument by counsel for the parties, the proceedings were read and considered.

It is thereupon, this 27th day of July, in the year 1864, by this court ordered that the said motion for injunction in this cause be, and the same is hereby, overruled.

WILLIAM F. GILES.

And afterwards, to wit, on the 25th day of January, in the year 1865, the following argument was filed, to wit:

In the circuit court of the United States for the fourth circuit in and for the Maryland district.

HENRY B. SLAUGHTER
vs.
JULIUS GERSON.

It is agreed between the counsel of the respective parties to the above-entitled case, that a commission to take testimony in said case shall be issued to Joseph B. Varnum, esquire, of the city of New
45 York, to be executed in said city upon such interrogatories as may be put at the time of the execution thereof. It is likewise

agreed that evidence in the case of Julius Gerson vs. Henry B. Slaughter, also depending in the same court, may be taken under the said commission, and that the testimony taken under the same may be used indifferently in either case.

W'M SCHLEY,
For Slaughter.
T. PARKIN SCOTT,
ROB'T C. BARRY,
Sol's for Gerson.

BALTIMORE, *January 24th*, 1865.

Whereupon commission issued accordingly.

And afterwards, to wit, on the 27th day of January, in the year last aforesaid, the following agreement was filed in court here, to wit:

In the circuit court of the United States for the district of Maryland.
In equity.

HENRY B. SLAUGHTER, COMPLAINANT,
vs.
JULIUS GERSON, RESPONDENT.
} Cross-bill.

JULIUS GERSON, COMPLAINANT,
vs.
46 HENRY B. SLAUGHTER, RESPONDENT.
} Original bill.

It is hereby agreed that the commission to take testimony in the city of New York, on the part of Henry B. Slaughter, in the above actions, be directed to and executed by Peter Starr, esq., of No. 10 Wall st., in the city of New York, and Joseph W. Howe, esq., of No. 14 Wall st., in said city, counsellors at law.

Dated N. Y., Jan'y 26, 1865.

B. W. HUNTINGTON,
240 *Broadway, N. Y., of Counsel for Julius Gerson.*
TORRENCE, SPAULDING & RICHARDSON,
Of Counsel for H. B. Slaughter.

The commission, issued under an agreement heretofore filed, to Joseph B. Varnum, esq., and which has not been forwarded, is hereby withdrawn; and we agree that commission shall issue as above.

W'M SCHLEY,
For H. B. Slaughter
ROB'T C. BARRY,
For Gerson.

Whereupon commission was accordingly issued.

47 And afterwards, to wit, on the 3d day of February, in the year of our Lord 1866, the following bill of supplement and revivor was filed in court here, to wit:

In the circuit court of the United States for the fourth circuit, and in and for the district of Maryland. In equity.

JULIUS GERSON
vs.
HENRY B. SLAUGHTER.

To the honorable the judges of the circuit court of the United States in and for the fourth circuit and district of Maryland, sitting in equity:

The bill of supplement and revivor of your orator, the said Julius Gerson, of the city and State of New York, respectfully sheweth:

That, heretofore, to wit, on or about the fifteenth day of July, in the year eighteen hundred and sixty-four, your orator exhibited and filed in this court his bill of complaint and three exhibits against a certain Henry B. Slaughter, of Kent County, in the State of Maryland, in and by which bill and exhibits your orator inter alia set forth and stated that the said Henry B. Slaughter was indebted unto your orator upon his bond, filed as one of said exhibits, in a large sum of money, to wit, the sum of twenty thousand dollars and interest, and to secure the payment thereof that the said Henry had executed, acknowledged,
48 and delivered to your orator two several mortgages of two several steamers, one called the "George Law" and the other the "Chester," which original mortgages, duly recorded, &c., were filed as exhibits in the said bill; and also charging that said bond was past due and unpaid. Wherefore, and in and by said bill, your orator sought relief by decree for a sale of said mortgaged property for the payment of his said claim, and for such other and general relief as the case might require, &c. Upon which bill subpœna issued, and the said Henry B. Slaughter, by his solicitor, appeared and answered, and in and by his said answer contested the right and equity of your orator's said claim, &c.

And your orator further showeth that, afterwards, to wit, on or about the first day of August, in the year eighteen hundred and sixty-four, the said Henry B. Slaughter exhibited and filed in this court his cross-bill and exhibits, in and by which he further denied and sought to contest and defeat your orator's said claim, to which cross-bill your orator appeared, answered, and afterwards commissions were issued to take evidence in both suits, under which commission certain depositions and evidence were taken, and the said commission is still outstanding, &c.

And your orator sheweth unto your honors that afterwards
49 the said Henry B. Slaughter departed this life intestate as it is said, and that administration of *her* personal estate was granted and committed by the orphans' court of Kent County, in Maryland, aforesaid, unto Joel C. Slaughter, of Kent County aforesaid, who assumed the duties of said trust, &c. And that the said Joel C. Slaughter, as administrator as aforesaid, afterwards exhibited and filed his bill of revivor of the said cross-bill theretofore filed by his intestate in this court, to which bill of revivor your orator answered, &c.; and afterwards by decree of this court, made and passed on the fourteenth day of November, in the year eighteen hundred and sixty-five, the said cross *cross* suit was revived, &c., all of which manifestly appears on reference to the records and proceedings of this court in the matters aforesaid, and your orator prays that the same may be taken and considered as a part of this his bill of supplement and revivor. In tender

consideration whereof, and to the end that the said Joel C. Slaughter, administrator as aforesaid, may appear to and answer this bill of supplement and revivor, and that your orator's said original bill against the said Henry B. Slaughter may be and stand revived, with all
50 the proceedings had in said suit against the said Joel C. Slaughter, as administrator as aforesaid, &c., and that the taking of testimony under the said commissions may be allowed to proceed, and that all the evidence heretofore, and well as that which may hereafter be taken under said commission by your orator, may be received, &c. May it please your honor to grant to your orator the writ of subpœna to the said Joel C. Slaughter, administrator of the personal estate of the said Henry B. Slaughter, deceased, to appear and answer, &c. And as in duty bound your orator will pray, &c.

ROB'T C. BARRY,
For Complainant.

Whereupon the court passed the following decree of revivor, to wit:

Bill of sup. & rev.

In the circuit court of the United States in and for the fourth circuit and district of Maryland. In equity. term 1866.

IN THE CASE OF JULIUS GERSON
vs.
JOEL C. SLAUGHTER, ADM'R OF HENRY B. Slaughter, deceased.

This bill of supplement and revivor standing ready for a hear-
51 ing, and being submitted, and the said bill, answer, and all other proceedings having been by the court read and considered, it is thereupon, this 3rd day of February, in the year 1866, by the circuit court of the United States in and for the fourth circuit and Maryland district, sitting in equity, adjudged, ordered, and decreed that the said original bill in the said bill of supplement and revivor mentioned and set forth be, and the same is hereby, and shall stand revived as against the said defendant in this suit as administrator as aforesaid, &c., and leave is hereby given to the parties to proceed with the taken of the evidence under the commissions heretofore issued, &c.

WILLIAM F. GILES.

Whereupon issued subpœna in form following, to wit:

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

THE CIRCUIT COURT OF THE UNITED STATES SEAL. MARYLAND. To Joel C. Slaughter, administrator of Henry B. Slaughter, of Kent County, Maryland, greeting:

You are hereby commanded that, all excuses and delays set aside, you be and appear before the judges of the circuit court of the United States, for the fourth circuit, in and for the Maryland district, at
52 the clerk's office at the United States court-house, in the city of Baltimore, on the first Monday in March next, to answer unto the bill of supplement and bill of revivor of Julius Gerson, of the city, county, and State of New York, in the said court exhibited against you.

Hereof you are not to fail, at your peril, and have you then and there this writ.

Witness the Honorable S. P. Chase, Chief Justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and sixty-five. Issued the 13th February, 1865.

JAMES W. CHEW,
Clk Circuit Court.

R. C. B.

At which said first Monday in March, in the year last aforesaid, being the return day of the aforegoing subpœna, the marshal of the Maryland district, to wit, Washington Bonifant, gentleman, to whom the said subpœna was delivered, to be served made return thereof to the court here thereon endorsed, to wit:

"Service on Joel C. Slaughter, adm'r, admitted. W'm Schley, sol. for said Joel C. Slaughter. March 1st, 1866.

"W. BONIFANT,
"*U. S. Marshall.*

And afterwards, to wit, on the 18th day of March, in the year
53 of our Lord 1867, the following order for commission was filed, to wit:

In the U. S. circuit court.

GERSON
vs.
SLAUGHTER.

Mr. CHEW:

Let commission issue to Fred'k Pinkney, esq., to take testimony in the above-entitled cause, as also in the cross-bill.

BARRY & SCOTT,
For Complainant.
WM. SCHLEY,
For Respondent.

Whereupon commission was accordingly issued.

And afterwards, to wit, on the 16th day of April, in the year of our Lord 1868, the commission to Peter Starr and Joseph W. Howe, return and testimony were filed in court here, to wit:

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

THE SEAL OF THE CIRCUIT COURT OF THE U. S. MARYLAND.

To Peter Starr and Joseph W. Howe, esquires, of the city of New York, greeting:

54 Be it known that you are appointed commissioners to examine evidence in a cause now depending in the circuit court of the United States for the fourth circuit in and for the Maryland district, between Henry B. Slaughter, complainant, and Julius Gerson, defendant. Therefore you are requested, having first taken the oath hereunto annexed, and also administered the annexed oath to the person whom you

shall appoint as clerk to attend the execution of this commission, that at such time and place as to you shall seem convenient, you cause to come before you all such evidences as shall be named or produced to you by either the complainant or defendant, and that you examine them upon their corporal oath to be by you administered upon the Holy Evangely of Almighty God, touching their knowledge or remembrance of any thing that may relate to the cause aforesaid; and having reduced the depositions of the witnesses so taken by you into writing, you send the same, with this commission closed, under your hand and seal, to the said circuit court with all convenient speed.

Witness the Honorable S. P. Chase, Chief Justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and sixty-five. Issued the 27th January, 1865.

55 JAMES W. CHEW,
Clerk Cir. C't.

Commissioner's oath.

You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties, take the examination and depositions of all and every witness or witnesses produced and examined by virtue of the commission hereunto annexed, upon the interrogatories now, or which may hereafter before the said commission is closed, be produced to, and left with, you by either party. So help you God.

Clerk's oath.

You shall truly, faithfully, and without partiality to any or either of the parties in this cause, take, write down, and transcribe the depositions of all and every witness and witnesses, produced before and examined by the commissioner named in the commission hereunto annexed, as far forth as you are directed and employed by the said commissioners to take, write down, and transcribe the said depositions, or any of them. So help you God.

56 In the circuit court of the United States for the fourth circuit in and for the Maryland district.

HENRY B. SLAUGHTER, COMPLAINANT,
vs.
JULIUS GERSON, DEFENDANT.

We, the undersigned commissioners, appointed under and by virtue of the commission hereto annexed, do hereby certify that we and each of us having taken the oath prescribed in said commission, did proceed to examine the witnesses named or produced to us by the complainant and defendant, respectively, upon their several corporate oaths by us administered to them, respectively, upon the Holy Evangely of Almighty God; that we personally reduced the depositions of the witnesses so taken by us to writing, and that the said depositions are hereto annexed.

Dated New York, March 15th, 1867.

PETER STARR, *Commissioner.*
JOSEPH W. HOWE, *Commissioner.*

In the circuit court of the United States for the Maryland circuit.

57 JULIUS GERSON
vs.
JOEL B. SLAUGHTER, ADM'R OF HENRY B. Slaughter, dec'd.

JOEL B. SLAUGHTER, ADM'R, &C.,
vs.
JULIUS GERSON.

It is hereby stipulated that the testimony taken in the above causes before Messrs. Howe and Starr, commissioners, in the city of New York, shall be read in evidence upon the hearings with like effect as if the same had been taken within the time fixed by the rules of this court.

Dated New York, January 12th, 1867.

B. W. HUNTINGTON,
Of Counsel for Julius Gerson.
TORRENCE, SPAULDING & RICHARDSON,
Of Counsel for Joel Slaughter, adm'r.

United States circuit court, district of Maryland.

JULIUS GERSON
vs.
HENRY B. SLAUGHTER. — Foreclosure suit.—Original bill.

58 SAME
vs.
JOEL SLAUGHTER, ADM'R OF Henry B. Slaughter, dec'd. — Foreclosure suit revived.

HENRY B. SLAUGHTER
vs.
JULIUS GERSON. — Original cross-bill to rescind contract, &c.

JOEL SLAUGHTER, ADM'R OF Henry B. Slaughter, dec'd.
vs.
JULIUS GERSON. — Cross-bill to rescind contract, &c., revived.

It is hereby agreed that the testimony taken under the commission to Joseph W. Howe and Peter Starr, in the city of New York, issued under the bill and cross-bill in the above-entitled original suits, shall be deemed as taken both in the original and revived suits and cross-suits, and shall be read in evidence on the trial of the revived suit and cross-suit with like effect as if the commission had first issued in the revived cross-suit, it being the object of this agreement to stipulate that the standing of the testimony referred to shall be in nowise prejudiced by the fact of abatement and revivor, and that the said testimony (so far as receivable in other respects) shall apply to all the matters at
59 issue between the parties in the above court, and be read upon the trial of such matters.

Dated New York, March 8th, 1867.

B. W. HUNTINGTON,
Att'y for Julius Gerson.
TORRENCE, SPAULDING & RICHARDSON,
Att'ys for Joel Slaughter above named.

Circuit court of the United States for the State of Maryland.

JULIUS GERSON
vs.
JOEL SLAUGHTER, ADMINISTRATOR, &C.

JOEL SLAUGHTER, ADMINISTRATOR, &C.,
vs.
JULIUS GERSON.

It is hereby admitted that, on the 13th day of April, 1864, policies of insurance were issued by the Harmony Insurance Company of the city of New York, a marine insurance company, running to Henry B. Slaughter as owner upon the steamer "Minna," otherwise called the "George Law," and the steamer "Chester," covering the usual marine risks for the period of one year from April 13th, 1864, losses, if
60 any, payable to Julius Gerson above named, as mortgagee, upon which a premium was paid to said insurance company, April 13th, 1864, of $1,427 50.

TORRENCE, SPAULDING & RICHARDSON,
Att'ys for Joel Slaughter, Adm'r.

B. W. HUNTINGTON,
Att'y for Julius Gerson.

MARCH 4TH, 1867.

THE UNITED STATES OF AMERICA,
District of Maryland:

United States circuit court, district of Maryland.

HENRY B. SLAUGHTER, COMPLAINANT,
vs.
JULIUS GERSON, DEFENDANT.

Depositions of witnesses produced, sworn, and examined the twenty-second day of March, in the year one thousand eight hundred and sixty-five, under and by virtue of a commission issued out of the circuit court of the United States for the district of Maryland, in a certain cause therein depending and at issue between Henry B. Slaughter, complainant, and Julius Gerson, defendant, as follows, by and before Peter Starr and Joseph W. Howe, commissioners
61 in said commission named and duly sworn, Torrence, Spaulding & Richardson, esq's., appearing as counsel for the said complainant, and B. W. Huntington, esq., as counsel for the said defendant.

JEREMIAH COUNSELLOR, of Newark, New Jersey, being duly and publicly sworn and examined on the part of the complainant, Henry B. Slaughter, doth depose and say—

1st int. What is your age; where is your residence; and what is your business?

Ans. My age is 45; my residence in Newark, New Jersey; I am general agent of the Jersey City Insurance Company.

2nd int. Do you know the parties to this action, or either of them; and if so, how long have you known them, or either of them?

Ans. I have known Mr. Slaughter 8 years—I should think about 8 years. Mr. Gerson, I should think, a little over one year.

3rd int. In March or April last did you know a steamboat called the Minna? and if so, state to whom she belonged, and where she was.

Ans. I did. She was running to Amboy from New York, I believe. Mr. Hazard told me that she belonged to Mr. Gerson.

62 4th int. At about that time did you have any negotiations in behalf of the plaintiff with Mr. Gerson, the defendant, in this action in regard to the purchase of said steamboat?

Ans. Yes, sir.

5th int. Please to state, as near as you can recollect, the time when those negotiations commenced?

Ans. I think it was in the month of March.

6th int. Where did the negotiations take place?

Ans. Between me and Mr. Hazard. I called to see Mr. Hazard at his office.

7th. int. Can you fix the time of your first interview with Mr. Hazard?

(Question objected to by counsel for the defendant on the ground that no is shown between Mr. Gerson and Mr. Hazard; also because the witness has been asked only in reference to negotiations between himself and Mr. Gerson; also because the sale of the steamer is evidenced by an instrument in writing in which all negotiations were merged.

The above question is waived by the complainant's counsel for the present.)

8th int. Do you know William H. Hazard?

Ans. Yes, sir.

9th int. Is he the gentleman alluded to in your reply to the sixth interrogatory?

Ans. Yes, sir.

63 10th int. Where was his office at that time?

Ans. Over David O'Neal's tobacco store in Pearl st.—I mean Front street.

11th int. Did Mr. Hazard act in those negotiations for either of the parties to this action? and if so, for whom?

(Question objected to by defendant's counsel on the ground that the fact of agency cannot be proved by the acts of the agent.

Question answered, subject to above objection.)

Ans. Mr. Hazard wrote me a letter asking me to call at his office. Mr. Hazard did act in the negotiations.

12th int. For whom?

Ans. He said he had three boats for sale, and he thought either one would suit my friend.

13th int. For whom did Mr. Hazard act in these negotiations?

(Question objected to by defendant's counsel on the ground that the witness cannot state what Mr. Hazard said as proof of agency, and in absence of proof of agency.)

Ans. He acted for Mr. Gerson.

14th int. Can you fix the time of your first interview with Mr. Hazard?

(Question objected to on the same ground as when asked as the 7th question.

The counsel for the complainant and defendant here agree, in order to avoid the formal making of objections, that the whole testi-

64 mony taken under this commission shall be considered as taken, subject to all legal objections to be made at the trial of the cause, except the objection that a question is leading, which objection shall be interposed upon the taking of the testimony.)

Ans. It was March, I think, 1864; on or about the first of March.

15th int. Where did the first interview take place between you and Mr. Hazard?

Ans. At his office, in this city.

16th int. Who was present at that interview?

Ans. We were alone.

17th int. What was said at that interview between you and Mr. Hazard, in regard to the purchase of the steamboat Minna?

Ans. He explained the boat—her capacity. We wrote a joint letter. He commenced it, and he asked me to join in it, and I wrote from his office. He said the party who owned the boat was pushing him to make sale; if he didn't, he would lose the sale of her.

18th int. Who was the letter written to of which you have just spoken?

Ans. H. B. Slaughter, one of the parties to this suit.

19th int. Had you ever seen Mr. Hazard before?

Ans. I think this was our first interview.

20th int. What did you first say to Mr. Hazard at that interview?

65 Ans. I told him I had received his note. I asked him if that was Mr. William H. Hazard, jr. He said it was.

21st int. What did you then say to him?

Ans. I told him I come to talk about steamboats. He referred me to what he had. He showed me the book, and he read them off to me.

22nd int. Did you tell him for whom you called?

Ans. I did.

23rd int. What was said about that?

Ans. He said he had a boat would suit him.

24th int. Did you tell him for whom you called, and did you give him his name?

Ans. I did.

25th int. What was said about that?

Ans. He said he had a boat would suit him.

26th int. 25th question repeated.

Ans. Henry B. Slaughter.

27th int. Did you tell him what Mr. Slaughter wanted?

Ans. I did.

28th int. What did you tell him?

Ans. I laid the letter before him that I had from Mr. Slaughter. He said that he had a boat that would answer that description. He knew what was wanted, for his son had been here, (Slaughter's son.) He didn't tell me who owned the boat at the time. He talked per-

66 haps half an hour. We wrote the joint letter. I think that was all that occurred at that interview.

29th int. Was there anything said by you at that time, in regard to the kind or character of a boat that Mr. Slaughter wanted?

(Objected to, as leading, as suggestive, the witness having already stated that he laid before Hazard Slaughter's letter describing the boat he wanted.

Answer taken, subject to the objection.)

Ans. There was.

30th int. Now, please state what was said by you, as to the kind or character of a boat that Mr. Slaughter wanted?

(Objection repeated and question allowed as before.)

Ans. He wanted a fast boat, not less than 16 miles an hour, and it must not draw over three and a half feet of water; if she did, she

would not answer for the route. Mr. Hazard said that was what she was gauged at, this steamboat Minna. He joined with me in that letter, stating her draft and speed to Mr. Slaughter at that time. Her boiler was new. I think he said her machinery had been thoroughly overhauled and was as good as new; the boiler was just put in—was new.

31st int. Did you tell him what particular route this boat was to run upon?

67 Ans. I did; I explained that to him.

32nd int. What did you say about that?

Ans. I repeated what I had before said to him. He said Mr. Slaughter's son had also told him.

33rd int. What was said about the route?

Ans. I told him it was shoal water. They could'nt get in at Queenstown over the bar if she drew over 3½ feet. He repeated what he had said before, that this boat did not draw any more. He wished me to get the old gentleman, or old man, Mr. Slaughter, on here to close the matter up.

34th int. What route did you tell him you wanted the boat for?

Ans. The Crompton and Baltimore.

35th int. Was there anything more said at this interview that you remember?

Ans. The price of the boat was talked of at all the interviews; it had been named in the letter.

36th int. What was the price?

Ans. I think it was $45,000. He said the party might take less, but that was the price given to him.

37th int. When did you have your next interview; how long after, and with whom?

Ans. Three or four days after, I think, with Mr. Hazard.

38th int. Where?

Ans. At my office, Jersey City.

39th int. Please state what was said at that interview; what he said and what you said; detail the conversation.

68 Ans. He said he called, or had been waiting some time to see me to know if I had heard anything in regard to the steamboat. I had'nt any information at that interview for him. I told him that as soon as I got any information I would inform him. That was all of interview number two.

40th int. When did you next see Mr. Hazard or Mr. Gerson?

Ans. It was within a very few days after that, that I got word that he, Mr. Slaughter, would make his arrangements to come on to see Mr. Hazard about the boat.

41st int. When did you have your next interview, after the one at Jersey City?

Ans. I think he sent me a note to come to his office the next day.

42nd int. Did you go?

Ans. I did.

43d int. Whom did you see there?

Ans. I saw Mr. Hazard.

44th int. What was said at that interview between you and Mr. Hazard?

Ans. He thought my friends were slow in getting on. At his request I wrote another letter, I think in his office. He seemed to express a fear that he would lose the sale of the boat, if they did not come on. I can't think of anything more that occurred at that time.

69 45th int. Did you have another interview after that with either Mr. Hazard or Mr. Gerson?

Ans. I had repeatedly with Mr. Hazard—almost daily had communications with him one way or another.

46th int. Did you have an interview with both Mr. Hazard and Mr. Gerson?

Ans. I am not positive. I am inclined to think I did not until he, Mr. Slaughter, came on. I might have had such an interview. I did'nt charge my mind with it.

47th int. Down to the time that Slaughter came, your interviews were chiefly with Mr. Hazard, were they not?

Ans. Yes, sir.

48th int. Did you have any interviews with Gerson before or after Mr. Slaughter came?

Ans. I am not positive, but I think I had one interview with Mr. Gerson before Mr. Slaughter came.

49th int. What was said at the time you first saw Mr. Gerson, between you and Mr. Gerson?

Ans. I don't recollect distinctly the first time I saw Mr. Gerson whether it was with Mr. Hazard or not.

50th int. Did you ever see Mr. Gerson about this steamboat?

Ans. I did.

51st int. Was it before or after the sale?

70 Ans. It was before.

52nd int. Where was the interview and who was present?

Ans. At Mr. Gerson's store, in this city; I believe Mr. Hazard, Mr. Gerson, Mr. Slaughter, and myself were present.

53rd int. Was there a conversation at that interview, about the steamboat, by the parties present?

Ans. There was.

54th int. Tell us what was said.

Ans. The whole thing, as stated before, was talked over in regard to the correspondence, the price of the boat, her capacity, in a general way, as steamboat men would talk, I suppose. Mr. Slaughter was a stranger, and he wanted to have some talk with Mr. Gerson in regard to what Mr. Hazard had been corresponding with him in regard to the boat.

55th int. What was said at that interview?

Ans. Mr. Hazard repeated what had taken place between himself and Mr. Slaughter in regard to the boat; that Mr. Slaughter was here now to speak for himself, I think was the word used, or to act for himself. Mr. Slaughter explained to Mr. Gerson in regard to the draft, the speed of the boat. Mr. Gerson said that she would answer in every particular for his route; I think he said was just the thing; that she
71 only drew three and a half feet, and would'nt only run 16 miles an hour, but would run 18 miles an hour. They talked about the price of the boat, in regard to the payments if they should make the negotiation. I don't recollect definitely what was said in regard to the payments. I think Mr. Gerson assurred him on that interview, that if she drew any more water than had been named, that he would give him the boat for a thousand dollars. Slaughter seemed to be so anxious on that point, he was—that seemed to be leading point with him—that I suppose called out the remark from Mr. Gerson; that seemed to be the great burthen on his mind, to get just such a boat as he wanted.

56th int. What did Mr. Slaughter say at that interview, and what did Mr. Gerson say in reply?

Ans. Mr. Slaughter said the reason why he was so particular about the boat was that she would be worthless to him for any other route, this being the only route he had. He wanted to keep off an opposition—that was what he wanted a boat of that capacity for—there was an opposition threatened and he wanted something that would beat it. Mr. Gerson only repeated what he had said before, that she would run faster than he wanted, and she would run anywhere with 3½ feet of water, and said that he would not only give him the boat for a thousand dollars, but would give her to him if she drew any more water. I think
72 that was the words. Mr. Slaughter replied, that he didn't want his boat for nothing; that if she drew any more he might have to give her away. He better be careful what he said. I don't think now of anything more he said. I didn't keep any minutes of our conversation. It didn't occur to me that there was anything intended to deceive Mr. Slaughter, or that I would ever be called on as a witness. I never had such an idea as that.

57th int. Did Mr. Slaughter say anything at that interview as to the route or the character of it, that he wanted the steamboat Minna for?

Ans. I think he did.

58th int. What did he say?

Ans. It would be a very difficult matter, in some respects, to give his language. I could not give every word that was said on both sides. Mr. Slaughter said, he could not get over the bars to get into Crumpton or to get into Queenstown if the boat drew over 3½ feet of water.

59th int. Was anything more said by Slaughter in regard to the character of the route?

Ans. I don't recollect that there was.

60th int. Was there anything said by Slaughter in regard to the kind—the character—of the steamboat he wanted; and if so, what was it?

Ans. There was. He said he wanted a fast boat, not to draw to exceed 3½ feet of water, for the route from Crompton to Baltimore.
73 61st int. Did Mr. Gerson reply anything to these statements in connection with the steamboat Minna; and if so, what was it?

Ans. He replied that she did not draw an inch more than that—that was all she drew; and if she did he would do as he had before said—he should have her for nothing.

62nd int. What do you mean by "that" in your last answer?

Ans. I mean 3½ feet.

63rd int. Was there anything said at that interview about what was meant by the vessel's drawing three and one-half feet of water?

Ans. I don't recollect that there was. There might have been, but it don't occur to me at this moment.

64th int. Was there anything said at that interview by Mr. Slaughter about buying the vessel if she didn't draw but 3½ feet of water?

Ans. There was.

65th int. What was it?

Ans. He said he didn't want her at any price if she drew more than the 3½ feet of water named. Mr. Slaughter said that.

66th int. Did Mr. Gerson say anything in reply to that; and if so, what was it?

Ans. Mr. Gerson remarked that if she did he would get a very cheap boat, I think.

67th int. Was anything else said by Mr. Gerson?

Ans. Mr. Gerson said that if she did he would get her for a
74 thousand dollars.

68th int. In reply to that statement made by Mr. Slaughter, did

Mr. Gerson say anything as to whether the boat did or did not draw more than 3½ feet of water?

Ans. He said she did not draw more than three and one-half feet.

69th int. Was there anything said at that interview about the vessel's draft of water in connection with her being laden?

(Objected to by Mr. Gerson's counsel, as leading, and on the same ground he objects to this witness being examined any further as to the particular points in the present question.)

Ans. There was.

70th int. What was said and by whom?

(Same objection as to last question.)

Ans. Mr. Gerson remarked that three and a half feet applied to the boat when laden—they didn't run them empty—that was what he understood.

71st int. Was there anything more said at this particular interview, except what you have already testified to?

Ans. I think there is nothing that occurs to my mind now.

72nd int. Have you ever had any conversation with Mr. Gerson in regard to Mr. Hazard's agency in connection with this boat?

75 Ans. Yes; I had several interviews with him. Mr. Gerson told me he had paid him, Mr. Hazard, commissions for selling the boat.

73rd int. At this first interview that Mr. Counsellor had with Mr. Gerson, I understood you to say that Mr. Hazard was present. Was there anything said between Mr. Hazard and Mr. Gerson about a correspondence that had been had between Mr. Slaughter and Mr. Hazard; and if so what was it?

Ans. I don't recollect anything definite that was said at that time about that correspondence. Both parties seemed to admit there had been correspondence. Gerson remarked that he had expected to see Mr. Slaughter sooner; from what he had heard from Mr. Hazard he thought they were slow people down there.

74th int. Before you went to Gerson's store, did you call at Hazard's office?

Ans. I did.

75th int. Who was with you?

Ans. Mr. Slaughter and his son, I think.

76th int. What was said to Mr. Hazard when you went there?

Ans. I told him Mr. Slaughter was here in a carriage waiting to see him. He went down, got into the carriage, and went to Gerson's.

77th int. At this first interview was there anything said in regard to the draft of the vessel's being determined by actual survey or measurement?

76 Ans. I don't recollect that there was.

78th int. Did the parties at this interview agree upon the purchase and sale of the steamboat Minna?

(Objected to as leading, and as calling for the opinion of witness on a question of law, without the facts to support it.

Allowed, subject to the objection.)

Ans. They did, conditionally, I think.

The further taking of the testimony was here adjourned to the 24th March inst., 1865, at 2 o'clock p. m.

FRIDAY, *March 24th*, 1865.—The complainant and defendant appeared by their respective counsel, viz: B. W. Huntington, for the defendant, and Torrence, Spaulding & Richardson, for the complainant, and the

examination of the aforesaid witness, Jeremiah Counsellor, was continued, as follows:

79th. int. What do you mean by saying they did, conditionally?

(Objected to by def't's counsel on same ground as last question, and also that the contract is evidence by an instrument in writing, and therefore parol evidence of previous negotiations or agreements is irrelevant, immaterial, and improper.

Allowed, subject to objection.)

77 Ans. It was in regard to the terms of payment, I think.

80th int. Was there anything else said at that interview that you can recollect, before the agreement?

Ans. Mr. Slaughter referred again to the depth or draft of water. Mr. Gerson assured him that he need have no fears on that point, three and a half feet was all the Minna drew. I believe there was nothing done till the next day after that.

81st int. What was done the next day?

Ans. They met again—I was present—at the store of Mr. Gerson. The same thing was talked over again.

82nd int. What was said?

Ans. Mr. Gerson, I believe, asked Mr. Slaughter what conclusion he had come to?

83rd int. What did Mr. Slaughter say?

Ans. Mr. Slaughter said he hadn't come to any definite conclusion. He wanted to know if Mr. Gerson had thought of what he said in reference to payment. Mr. Slaughter said he hadn't changed his views in regard to the making payment, I think, was the word used. Mr. Gerson expressed a willingness to comply, and after further conversation they closed their agreement, Mr. Slaughter paying fifty dollars as a part of the purchase-money.

84th int. Was there anything said about the price of the vessel?

Ans. The price of the vessel was to be $40,000.

78 85th int. Was anything said about the terms of payment; and if so, what was it?

Ans. There was. The terms of payment was to be $15,000 in hand and $25,000 on bond and mortgage.

86th int. At this interview was there anything said about the draft of the vessel; and if so, what was it?

Ans. Mr. Slaughter again said that he was purchasing or making the negotiation solely on the honor of a stranger, I think he said, and he hoped he wasn't deceiving him.

87th int. Who do you mean by the last "he?"

Ans. Mr. Gerson.

88th int. What did Mr. Gerson say to that, if anything?

Ans. Mr. Gerson again said, What do you mean, Mr. Slaughter? Mr. Slaughter said, I mean the draft of the boat. Mr. Gerson said, Mr. Slaughter, my God, I have told you fifty times about the draft of the boat. You ought to be satisfied; you get a cheap boat. Mr. Slaughter said he didn't want to get a cheap boat. He should rather pay his price for her than to take her for a thousand dollars. That money, the $50, was paid at this interview, I believe. The time was set for him to come and complete the agreement.

88th int. Was there anything said at that interview about their not being able to make a measurement of her draft of water; and if

79 so what was it?

Ans. That was spoken of. Mr. Slaughter said he wished it was so that he could measure the boat, but there was no way he could; being

lame he couldn't get around. I don't recollect the reply that was made by Mr. Gerson.

89th int. Was there anything said by Mr. Slaughter about his relying upon the representations of Mr. Gerson as to the draft of water of the vessel?

(Objected to by defendant's counsel as leading and suggestive. Allowed, subject to the objection.)

Ans. There was. Mr. Slaughter spoke of the three foot and a half of water that the vessel drew; that she would be worthless to him in his business, on that route, if she drew any more than that. Mr. Gerson again reassured him that he hadn't deceived him; that that was all the vessel drew. They closed, and bid each other good-bye, I think, on that.

90th int. Were you present at any further interviews between these parties?

Ans. I was. When Mr. Slaughter came on to close up the negotiations, which lasted for two days, I think—it might have been three. I am not positive about that. I have an impression that Mr. Gerson was not in the city, or we couldn't find him.

91st int. Now, please, who were present at the interviews;
80 what took place; what was said, and when they occurred?

Ans. Mr. Gerson, Mr. Slaughter, Mr. Slaughter's son, Mr. Hazard, and myself were present, and Capt. Robinson, or Roberts; he was there, at all events, at one of the interviews. The first interview was at Mr. Gerson's place of business. We called there. Mr. Gerson said he was glad to see them—I hope you have got them greenbacks. Mr. Hazard remarked that Mr. Slaughter had some, for he had seen them himself. Mr. Slaughter told him that he came on in a hurry; that it seemed to storm whenever he come to New York, and he had brought Capt. Robinson with him to see if they couldn't measure the boat. He was afraid Mr. Gerson was deceiving him; he didn't think he was doing it on purpose, but he wanted to examine for himself before he went any farther. Mr. Slaughter said he didn't feel disposed to pay any more money till the boat was measured. He said we would go and get some dinner. We, Mr. Slaughter and I, went and got some dinner. Capt. Robinson and Capt. Crawford, and Mr. Slaughter's son went to attempt the measurement of the boat. They afterwards reported, in presence of Mr. Gerson, at his place of business, the weather was so
rough it couldn't be done that day. It was postponed until the
81 next morning, when she came back from Amboy. They attempted the next day, but in the position the boat laid in, Capt. Robinson reported they couldn't measure her. She lay on her side; the water was so rough they couldn't ascertain her draft. He said he was afraid she would overrun the 3½ feet.

92nd int. Whom did he say that to?

Ans. He addressed himself to Mr. Slaughter. Mr. Gerson, Mr. Slaughter's son, and myself were present; the bad state of the weather was talked of, and Capt. Crawford said he didn't think it would be pleasant for several days, the storm seemed to be raging. He also said they couldn't measure her the way she laid. Mr. Gerson said there was no risk on Mr. Slaughter's part, because if the boat draws three and a half feet, I get the forty thousand dollars, and if she draws more than that, you get the boat for a thousand dollars, or I give her to you, I believe the word was. They asked something about drawing the papers, I think. Mr. Slaughter said he had no acquaintance here, and asked who they would get to draw them. I cast about in my own mind, and

couldn't think of anybody so near by (that I knew) as Mr. Richardson. I went after Mr. Richardson, and got him. He went with me to Mr. Gerson's place. Mr. Gerson explained to Mr. Richardson, and
82 he went on to complete the papers, (Mr. Richardson did.) Mr. Slaughter explained to Mr. Richardson, at the same time, the nature of the contract, and what he wanted. The contract was completed, Mr. Slaughter giving Mr. Gerson money to pay for the stamps. The papers were executed, and the money counted out there. The amount of money counted out, I think, was $15,000. I think something was said about Baltimore money, or a Baltimore draft.

The further taking of the testimony was here adjourned to the 28th day of March, inst., at 1 o'clock p. m.

28TH MARCH, 1865.—The complainant and defendant appeared by their respective counsel, and the examination of the aforesaid witness, Jeremiah Counsellor, was further adjourned by the consent of the said attorneys, to the 31st day of March, 1865.

31ST MARCH, 1865.—The complainant and defendant appeared by their respective counsel, and the examination of the witness, Jeremiah Counsellor, was continued as follows:

93rd int. Was the matter closed up at the interview which you
83 have referred to in your answer to the 92nd question?

Ans. It was.

94th int. Did you, at any of these interviews, hear Mr. Gerson say anything; and if so, what, in regard to his having employed Mr. Hazard to sell this vessel?

Ans. I did; Mr. Gerson told me that Mr. Hazard had the matter in hand, and that he had paid him four hundred dollars for selling the boat.

95th int. Did you hear Mr. Gerson say anything; and if so, what, at any of these interviews in regard to the amount or value of the repairs that had been recently made on the vessel?

Ans. I did. He said he had paid out fourteen thousand dollars, and had a large bill in his hand that had just come in to be paid, and he thought they were all paid, but he didn't know when they would stop, I believe was the word; that people must think he was made of money. I don't recollect anything further about the repairs, there might have been, but I can't call it to mind.

96th int. Did he, Mr. Gerson, at any of these interviews, say anything; and if so, what, in regard to the particulars or particular parts of the vessel or machinery on which these repairs had been made?

Ans. He did. He said the vessel had been thoroughly overhauled;
said she had been sunk; she had run foul of a snag, or struck a
84 snag and sunk her; and it give him a good opportunity to have her thoroughly overhauled. He said he had had a new boiler put in. He said the machinery and everything was good. He said the machinery was in good condition, and the boat was in better condition than ever before.

97th int. Was there anything said by Mr. Gerson at any of these interviews; and if so, what, as to the condition in which the boilers of this steamer then were?

Ans. He said the boiler was new.

98th int. Do you know anything about the draft of this vessel—how much water she drew?

Ans. I don't think I could tell. I know what depth the water was where she grounded, when I was on board of her.

99th int. Please to state, then, what you know about her being grounded; when, where, and how it was?

Ans. On the 18th of May, 1864, I took passage on her from Baltimore to Crompton. We went along very finely till we were going in to a wharf called Queenstown, one of the most important, and the important landing, I guess, on that route. The boat grounded about half-past nine o'clock, and we lay there till one o'clock a. m. in the day. I measured the water with a pole, myself and E. R. Ogden, who was with me. On the left-hand side of the boat, at the shoalest depth, was five feet four inches deep, and on the opposite side of the boat the water
85 was over six feet at the shoalest place I could find.

100th int. How did you make the measurement that you have spoken of?

Ans. I made it in two ways. First, I done it from the boat. I measured it with a two-foot square. I thought there must be some mistake about it, and I got the captain to let his men row me clear around the boat, and I made the measurement with a new stick, with the same result. I put the stick down till it touched bottom, then I measured the stick to see how far it was wet. The stick was wet five feet four inches and over, on the left side, and over six feet on the opposite side.

101st int. Did you make your measurements in this way all around the vessel, on both sides?

Ans. I did.

102nd int. Do you know what freight the steamer had on at this time? (Objected to as not being the best evidence. Allowed, subject to the objection.)

Ans. I know some of the freight—some barrels, cement I should think. There were from 40 to 60 passengers on board. We set a large number of them ashore, at Queenstown, in small boats.

103rd int. Did you put the passengers ashore before or after she grounded?

Ans. After she grounded.

104th int. How far from the dock at Queenstown, was it that she grounded?

86 Ans. I should think it was near a mile.

105th int. What enabled you to get away at last?

Ans. We waited for high water—the tide came in.

106th int. What was the effect of the high water—the tide—on the vessel?

Ans. It set us afloat, and she run up to the dock at Queenstown.

107th int. How many persons left the boat, when you were grounded, for Queenstown?

Ans. I should say there were twenty at least.

108th int. Did they leave the vessel before you got afloat?

Ans. They did.

109th int. How long after they left did you get afloat?

Ans. Three hours, I should say—perhaps more—but not less than that.

The direct examination of the witness on the part of the complainant was here closed, and the cross-examination was adjourned till Friday, the 7th day of April, at 12 o'clock, noon.

7TH APRIL, 1865.—The complainant and defendant appeared by their respective counsel, and the examination of the witness, Jeremiah Counsellor was continued as follows:

87 Cross-examined by defendants' counsel:

1st cross-interrogatory. Did you make any memoranda or adopt any other, and if so, what, means of remembering the conversations and incidents to which you have testified?

Ans. I made no memorandum. I remembered the conversation.

2nd cross-int. At the first interview between Mr. Gerson and Mr. Slaughter, how many times, about, do you think they reiterated concerning the draft of the boat?

Ans. I couldn't give a very correct account of that. Suffice it to say it was a good many times.

3rd cross-int. Do you think Gerson and Slaughter reiterated it as many as ten times at that interview?

Ans. They might have done so; I think they did.

4th cross-int. Now state what parties were present at that interview.

Ans. Mr. Gerson, Mr. Slaughter, Mr. Slaughter's son Joel, Mr. Hazard, (the gentleman who sits here,) and myself. Mr. Gerson had a partner, who was sitting at his desk.

5th cross-int. Was not a Capt. Robinson there?

Ans. I believe he was.

6th cross-int. Where did this interview take place?

Ans. In Mr. Gerson's store, in this city.

7th cross-int. Was this the first interview between Gerson and Slaughter?

Ans. I believe it was.

88 8th cross-int. Are you positive it was?

Ans. I think Capt. Robinson was present at the second interview instead of the first.

9th cross-int. Now state distinctly who was present at the first interview between Julius Gerson and Henry B. Slaughter.

Ans. Mr. Gerson, Mr. Slaughter, Mr. Hazard, myself, and I think the son of Mr. Slaughter. I am not positive whether Capt. Robinson and Mr. Slaughter's son were present at the first interview or not.

10th cross-int. Had Mr. Gerson and Henry B. Slaughter any interview with each other, to your knowledge, prior to the interview described by you as having taken place at Mr. Gerson's store?

Ans. They had none, to my knowledge.

11th cross-int. Did you, at your first interview with Mr. Hazard, assign any reason for your taking an interest in Mr. Slaughter's contemplated purchase of a steamboat?

Ans. I think I might have done so.

12th cross-int. In making your soundings where the steamer was aground, as described in your testimony, about how many times did you try the depth of the water on the respective sides of the boat?

Ans. I should think it was at least twelve on each side; not less than that.

13th cross-int. Were there any, and what, variations in the depth of the water at these several soundings?

89 Ans. There didn't appear to be but very little variation. The bottom was sandy.

The cross-examination of the witness Jeremiah Counsellor was here closed.

Redirect examination by complainant's counsel:

1st redirect interrogatory. In your answer to the 13th cross-interrogatory you stated that there didn't appear to be but very little variation. What do you mean by "very little variation?"

Ans. I don't think it varied one inch between the bow of the boat and the stern.

The re-direct examination here closed, and the cross-examination was resumed.

14th cross-int. Was the vessel aground the whole length of her keel?

Ans. I should think she was.

15th cross-int. Why did you think so?

Ans. She seemed to be bedded in the sand. We had two yawls and tried to draw her both ways with steam. They got out the yawls with ropes attached—the men were pulling in the boats, and they were pushing with pikes from the boat at the same time. Didn't make any impression on her. That was the reason I gave for thinking she
90 must touch the length of her keel.

The examination of the witness Jeremiah Counsellor was here closed.

J. COUNSELLOR.

PETER STARR,
J. W. HOWE,
Commissioners.

WILLIAM P. RICHARDSON, of the city of New York, being duly and publicly sworn and examined on the part of the complainant, Henry B. Slaughter, doth depose and say:

1st int. What is your name, age, place of residence, and business?

Ans. My name is William P. Richardson; age, 45; residence, city of New York; business, lawyer.

2nd int. Do you know the parties to this action; and if so, how long have you known them or either of them?

Ans. I know them both. I have known them for about one year.

3rd int. Do you know anything about the sale of the steamboat Minna by Mr. Gerson to Mr. Slaughter, the parties to this action?

Ans. I do. In March or April last I went with Mr. Counsellor, at his request, to the office of Mr. Gerson, in this city. I met there Mr.
91 Gerson and Mr. Slaughter, the parties in this action, and his son, called Capt. Slaughter. I was there informed by Mr. Gerson and by Mr. Slaughter that they had agreed upon the sale of a steamboat called the Minna, and that they wanted me to draw up the papers. Mr. Gerson sent a clerk out to obtain the blanks, and while he was gone there was a conversation between Mr. Gerson, Mr. Slaughter, Mr. Counsellor, and Capt. Slaughter. Capt. Slaughter said he thought the boat drew more than three and one-half feet of water. Mr. Slaughter said if she drew more water than that she would be utterly useless to him, for he couldn't carry more than that draft of water over the bars where he had to make landings on his route. Mr. Gerson replied, laughing as he did so, that it was no use to talk any more about that, for they had had his assurance that she did not draw more than that. He said if she drew more than that he would give her to Mr. Slaughter for a thousand dollars. He (Mr. Gerson) said he had had her measured, and had ascertained her draft. This was in reply to a remark of Capt. Slaughter about an attempt which he spoke of having made to measure her, together with some other person. Mr. Slaughter explained the business and
92 the route upon which he proposed to use the boat; said the route was between Baltimore and Crumpton and Queenstown, where he expected to do a very large business in the coming peach season. He wanted to head off an opposition, and wanted a fast boat. Mr. Gerson said

the boat would go 16 miles an hour. Mr. Gerson principally gave me the facts and the details to draw the papers. I drew a bill of sale of the steamboat Minna, otherwise called the George Law, from Mr. Gerson to Mr. Slaughter; a mortgage from Mr. Slaughter to Mr. Gerson upon the Minna; another mortgage from Mr. Slaughter to Mr. Gerson upon a steamboat called the Chester; a bond from Mr. Slaughter to Mr. Gerson for twenty-five thousand dollars. The consideration of the bill of sale was forty thousand dollars. We ascertained the amount that was necessary for revenue stamps, which I think was somewhere about forty dollars; I don't remember exactly. Mr. Gerson asked Mr. Slaughter for the amount for stamps in money. Mr. Slaughter gave it to him. Mr. Gerson went out himself to procure the stamps, and returned with them. The papers were then executed, but were not delivered immediately. Mr. Slaughter got out his money, and he and Mr. Gerson counted it—I mean the money with which he was to make the
93 cash payment of fifteen thousand dollars, which with the bond and mortgages made up the purchase price of the boat. The money was found to be nearly or quite all in Baltimore funds, upon which Mr. Gerson remarked there was a considerable discount in this market. Mr. Gerson demurred at receiving it at par. It was finally concluded between them that Mr. Gerson should take care of the money until the following morning. He took it, and gave Mr. Slaughter a receipt for it, as being received by him for safe keeping. Mr. Gerson retained his bill of sale, and Mr. Slaughter retained his bond and the mortgages. There *was* some further negotiations in regard to insurance upon the steamboats Minna and Chester as collateral security to the mortgages, the precise details of which I cannot state. Having finished my part of the work, Mr. Gerson, I think it was, raised the question, who was to pay me. I remarked that I did not know, because I did not know who had employed me, or for whom I was working. Mr. Gerson remarked that he thought it would be right for each party to pay for drawing his own papers, and that, as his (Gerson's) paper was nothing but a bill of sale, and was mostly printed, and there was very little writing about it, which he could do himself as well as any-
94 body, he didn't think he (Gerson) ought to pay anything. He did not pay me anything. I charged Mr. Slaughter $25, which he paid me.

4th int. At this interview of which you have spoken did Mr. Slaughter say anything to Mr. Gerson, and if so, what, of the character of the route, and the kind of boat he wanted to secure for it?

Ans. He did. He described the route as being between Baltimore and places down the bay where he had to run in shoal water to make his landings. He mentioned particularly the landings at Crumpton and Queenstown, I remember; that a boat could not go to t[illegible] ings or the docks that drew more than three and one half feet He said that if this boat drew an inch more than that he di[illegible] her. He also said he wanted a fast boat to beat an opposition

5th int. What did Mr. Gerson say, if anything, in reply?

(Objected to because it is reiteration. Question allowed, s[illegible] objection.)

Ans. Mr. Gerson said he knew the draft of this boat, and did not draw more than that draft of water.

6th int. Was there anything said at this interview, and if so,
95 what, as to the condition that the machinery of the boat was in?

Ans. Mr. Gerson stated to Mr. Slaughter that he had just been putting into her a new boiler; that a short time previous her machinery

had been thoroughly overhauled and put in complete order; that her frame had also been thoroughly overhauled, rotten timbers taken out and replaced, and that she was substantially a new vessel or as good as new. He stated the amount of money that had been expended upon her in those repairs independently of the new boiler; the amount he stated was, I think, $26,000, or thereabouts; that he had had to bear a portion of this expense and the underwriters a portion. I remember one other remark of Mr. Slaughter's before the papers were signed which I omitted, that was that he was a stranger here, and that he had to rely upon the word of strangers, and he hoped they would deal honestly by him.

The direct examination of the witness W. P. Richardson, was here ended and said witness was cross-examined by defendant's counsel, and deposed and said as follows:

Cross-examination:

1st cross-int. Was the date of the interview of which you have spoken the same date as the date of the bill of sale and other papers referred to?

96 Ans. I think it was.

2nd cross-int. What time of day did the said interview occur?

Ans. I do not recollect distinctly, but it is my present impression that it was after 12 o'clock. It lasted the rest of the afternoon.

3rd cross-int. About what length of time would you fix as your best recollection to have been occupied by the interview?

Ans. I should think two or three hours.

4th cross-int. Did the interview occur in Mr. Gerson's counting-room? and if so, describe the apartment as to size and furniture.

Ans. A portion of the time was spent in Mr. Gerson's counting-room, at other times the parties were in the outside store. The counting-room is on the 2d story of the building fronting the street. It is divided into two parts by a partition running through the middle lengthwise of the store, Mr. Gerson's part being the west side of the building. There was a double desk against the front wall, Mr. Gerson sitting at one face of the desk and I sitting at the opposite face while drawing the papers. There was a sofa standing against the partition, and between Mr. Gerson's place and the door. I think there was a table of some kind standing against the west partition of the store upon which there were some goods and samples. I should say the office was of the size of—

97 say from 12 by 20 to 25 feet, Mr. Gerson's part, although I did not make any estimate of its size at the time, and speak now merely from conjecture.

5th cross-int. Were you with Mr. Gerson and Mr. Slaughter while they were in the outside store?

Ans. I was near them.

6th cross int. Were you within Mr. Gerson's counting-room while they were in the outside store?

Ans. I may have been during some portion of the time. I was outside of the counting-room and in the store during a portion of the time. I walked up and down. I think it was outside of the counting-room that Mr. Gerson counted the money. While I was drawing the papers they went outside of the counting-room and at that time I did not go with them.

7th cross-int. Had any one else been sitting at the face of the desk occupied by you in drawing the papers before you took your seat there?

Ans. After I came into the room I think not. I have no recollection

of seeing any person there. There is an impression now on my mind that after I came into the room and before I took my place at that desk, there was a gentleman sitting or standing there for a short time, but my recollection is not distinct upon the subject.

8th cross-int. If your recollection be correct in this particular, you mean a gentleman other than Mr. Gerson or any of Mr. Slaughter's party?

98 Ans. I do.

The cross-examination of the witness was here closed.

Redirect examination by complainant's counsel, Mr. Spaulding:

1st redirect int. Do you know Mr. Gerson's handwriting?

Ans. I have seen him write his name several times.

(A paper writing which is hereto annexed and marked Exhibit "A," is offered in evidence by the counsel for Henry B. Slaughter, the complainant, and is admitted by the counsel for Julius Gerson to be genuine according to its purport.)

The examination was here adjourned to the 7th day of April, 1865, at 12 M. (as above set forth.)

The 7th day of April, 1865, the examination *the examination* of the witness was duly continued.

Redirect examination of W. P. Richardson resumed and continued:

2nd redirect int. How came you in possession of the exhibit, marked "Exhibit A?"

Ans. I received it on or about the day it bears date, in answer to a letter which I, as one of the firm of Torrence, Spalding & Richardson, acting as attorneys for Henry B. Slaughter, had the day before

99 delivered to Mr. Gerson, a copy of which last-mentioned letter is annexed to the answer of Henry B. Slaughter and marked "Exhibit H. B. S., No. 6." Said exhibit appears to be, and I believe is, a true copy of said letter.

The examination of the witness W. P. Richardson was here closed.

W. P. RICHARDSON.

The examination was adjourned to the 10th April, 1865, at 12 m.

PETER STARR,
J. W. HOWE,
Commissioners.

EXHIBIT A.—*Peter Starr, J. W. Howe, commissioners.*

NEW YORK, *July 8th*, 1864.

Messr. TORRENCE, SPAULDING & RICHARDSON.

GENTLEMEN: In reply to yours of this date, handed to me by your Mr. Richardson, in the matter of the steamboat "Minna," I have to say: I did not state or represent to Mr. Slaughter prior to the sale of the said steamboat—did not or would not draw more than three and one-half feet of water when fully loaded. What I stated and represented was simply that her captain and engineer had informed me that her draught was 3½ feet, and that he or his son, Captain Joel Slaughter, could

100 try it themselves. I did not tell him that said draught was represented to be the draught of the vessel when fully loaded, but to be her draught when not loaded.

Mr. Slaughter was informed by Capt. Crawford when he was examin-

ing the vessel with a view of purchase that she drew 3½ feet light at ends. He was also shown how far she was coppered up, three feet and nine inches, which showed three inches of her copper out. It is quite a fiction, therefore, that he did not know her draught.

Mr. Slaughter did not inform me before agreeing to purchase, at what places he intended to visit and trade at with the vessel, or that he did not want, or would not purchase her if she drew more than 3½ feet. The only notification I received from Mr. Slaughter after the sale, was contained in a letter of his dated April 30th, 1864. This letter and my answer to it will speak for themselves.

I deny having made any warranty or representations in the nature of a warranty to the effect stated in your letter of this date and decline to comply with your demand.

Yours respectfully,

JULIUS GERSON.

APRIL 10th, 1865.—The complainant and defendant, by their respective counsel, and JAMES E. BRETT, of New York, being duly and publicly sworn and examined as a witness on the part of the complainant,

101 Henry B Slaughter, doth depose and say:

1st int. What is your name, age, residence, and place of business?

Ans. James E. Brett; 37 years of age; residence, 17 Lafayette Place, New York City; place of business, 43 South street, New York City.

2nd int. What is your business?

Ans. Shipping and commission merchant.

3rd int. How long have you been engaged in that business?

Ans. As clerk and principal twenty-one years.

4th int. How long as principal?

Ans. Sixteen years.

5th int. What is meant, Mr. Brett, by the representation made here in New York that a vessel draws three and a half feet of water?

(The defendant's counsel objects that the witness has not been examined as to his acquaintance with, and business about, the buying and selling of or delivery in steamboats.

The question waived for the present by complainant's counsel.)

6th int. What do you mean by the word shipping as you have used it in connection with the statement you have made in regard to your business?

Ans. Our business is buying and selling sailing vessels and steamers, and chartering and doing *doing* business for the same.

102 7th int. And you have been engaged in that business for the past sixteen years as principal here in New York?

Ans. Yes, sir.

8th int. The 5th interrogatory repeated.

(Objected to by defendant's counsel on the ground that the custom in regard to sailing vessels is not involved in this action, and the word steamers is applicable rather to ocean than to river craft.

Answer allowed, subject to the objection.)

Ans. It means that she draws that with an ordinary cargo on board of her.

9th int. What do you mean by the word "steamer," as you have used it here in your testimony?

Ans. I mean all kinds of vessel propelled by steam.

10th int. What is meant by the representation here in New York that a steamboat draws three and a half feet of water?

Ans. It means that she draws 3½ feet of water with her cargo, coal and necessary stores on board.

The direct examination of the witness, James E. Brett, was here closed, and on the cross-examination by the defendant's counsel, the said witness deposed and said as follows:

1st cross-int. Have you been principally engaged in the business of buying and selling ocean sailing vessels and ocean steamers, or principally in the business of buying and selling of steamboats built
103 for inland navigation?

A. I have been engaged pretty largely in both.

2nd cross-int. When an order is given to a steamboat builder to build a steamboat for inland river navigation to draw 3½ feet of water, what is meant and understood by it?

Ans. I can't say; I never built any.

3rd cross-int. When the draft of a river steamboat is spoken of as being, say three and a half feet, and nothing is said about "light" or "loaded," do not steamboat men understand by it her draft with her machinery and ballast in, and coal for twenty-four hours?

Ans. None that I ever met would so understand it.

4th cross-int. Are you competent to testify from your own knowledge and experience how it would be understood, according to the custom among steamboatmen in the city of New York?

Ans. I think I am.

5th cross-int. If a river steamboat was described as drawing "three and a half feet at ends," what would be understood by that, according to the custom of steamboatmen in the city of New York?

Ans. I should consider that three and a half feet without any cargo on board of her.

6th cross-int. The 5th cross-interrogatory repeated.

Ans. It would be understood that she drew that without any cargo on board.

104 7th cross-int. What would be so understood by the word "light" in the question put to you?

Ans. It would mean without cargo, coal, or stores.

8th cross-int. Have you ever dealt in river steamboats built principally for passengers, and only for freight as incidental to her route between the places to and from which she would run, as for example such local freight as might be between New York and Amboy?

Ans. We sold several North River boats—that used to run on the North River.

9th cross-int. On the sale of these boats was any particular question made as to the distinction between their draft light and their draft loaded?

(Objected to as irrelevant by counsel for complainant. Allowed subject to objection.)

Ans. It was stated at the time of sale how much they drew light and how much they drew loaded.

10th cross-int. How did that happen to be stated?

Ans. We always state in offering a boat for sale how much she draws light, and how much loaded.

11th cross-int. In the case of river boats for passengers and incidental freight, do you always so state?

Ans. We do.

12th cross-int. If you should omit so to state would you be asked as to the distinction?

Ans. I don't know what parties might ask.

105 13th cross-int. Would you expect to be asked as to the distinction?

Ans. That would require a long answer. If I stated a boat would draw so many feet the parties would understand that it meant that the boat was loaded, unless something else was mentioned.

14th cross-int. Then, in stating the draft of a boat, do you state that she draws so many feet, and so many feet light, or do you state that she draws so many feet loaded and so many feet light?

Ans. Where we mention both we say she draws so many feet loaded and so many feet light.

15th cross-int. Don't you always mention both?

Ans. We generally do.

16th cross-int. If you mention only one, how do you speak it?

Ans. Well, if we meant light we would say light; if we meant loaded we might say it, or we might not.

17th cross-int. What would you mean, in regard to the draft of a river steamboat amidships, if you were to describe her as drawing so much at ends?

Ans. I would mean that she would not draw any more amidships than she would at the ends, unless she was peculiarly built.

18th cross-int. Would she not be peculiarly built if she did not draw more amidships than she did at ends?

106 Ans. No.

19th cross-int. Is not the draft of steamboats generally indicated by numerals marked at one or both ends, so that they can be plainly read?

Ans. It is.

20th cross-int. Do you know whether those numerals extend to the number of feet draft for which the vessel is built and calculated? (If this question if not plain enough please say so.)

Ans. I do not understand the question.

21st cross-int. I mean if those numerals run up, say to four feet, does that mean that the vessel is built and calculated to draw just four feet of water?

Ans. It generally means that a vessel can be loaded down to that draft.

22nd cross-int. But that such is the extreme to which she can be loaded with propriety and safety?

Ans. That does not follow.

23rd cross-int. State exactly then what the draft numerals referred to mean.

Ans. Some boats carry them a good deal higher than they could ever load, and some don't carry them nearly so high.

24th-cross int. Then what is the use of them?

Ans. To show how much a vessel draws.

25th cross-int. Do they show that?

A. They do unless put on falsely.

107 26th cross-int. What could be the object for putting them on falsely?

Ans. I don't know of any object in a river steamer.

27th cross-int. When you say then that some boats carry them up a good deal higher than they could load, and some boats do not carry them nearly so high, you do not refer to river steamers, do you?

Ans. I do.

28th cross-int. And would that be without any object?

Ans. It might be without any object.

The cross-examination of the witness, James E. Brett, was here closed, and being reëxamined on the direct examination deposed and said as follows:

Redirect examination:

1st int. Among steamboatmen doesn't a representation to the effect that a steamboat draws three and a half feet of water convey the same meaning as a representation that she draws three and a half feet loaded?

(Objected to as leading by defendant's counsel, and also suggestive, and therefore further objected to that the witness should not be further examined on the said point. Allowed, subject to objection.)

Ans. It does.

JAMES E. BRETT.

PETER STARR,
J. W. HOWE,
Commissioners.

108 The examination was here adjourned to the 11th day of April, 1865, at 3 o'clock p. m.

APRIL 11TH, 1865.—The complainant and defendant appeared, by their respective counsel, and EDWARD RICHARDSON, of Brooklyn, New York, being duly and publicly sworn and examined as a witness on the part of the complainant, Henry, B. Slaughter, doth depose and say:

1st int. What is your name, age, residence, and occupation?

Ans. Edward Richardson; 76 years of age; residence, Brooklyn; occupation, inspection of Seaman's Bank for Savings, in the city of New York.

2nd int. How long have you been engaged in that business?

Ans. Six years.

3rd int. Prior to going into that business, in what business were you engaged?

Ans. I was ship owner and in the commission business.

4th int. How long have you been engaged in the business of ship-owner, and the commission business, and where were you engaged in that business?

Ans. I was ship-owner before I was commission merchant, and while I was shipmaster for many years, I was ship-owner for more than twenty years, but I was not a commission merchant so long as that. My commission merchant business was in the city of New York. My commission business was in regard to ships—buying and selling
109 ships and receiving cargoes from abroad.

5th int. Have you had experience in building vessels within that time, or in superintending their construction?

Ans. I have.

6th int. Do you know—and if so, state—what is meant by the draft of water of a vessel?

Ans. The depth of water she draws—the depth to which she settles in the water.

7th int. Does this explanation of draft of a vessel apply when speaking of a sailing vessel as well as those propelled by steam?

Ans. The same—as well to the one as to the other—there is no difference.

(The competency of this witness to testify as to the meaning of the

descriptive draft of steamboats is objected to by the defendant's counsel, on the ground that he is not proved to be an expert as to that matter.

This objection is to be considered as applying to all questions and answers of this witness to that point.

Allowed, subject to objection.)

8th int. Among steamboatmen, Mr. Richardson?

(8th interrogatory withdrawn for the present.)

9th int. Have you ever had anything to do with the building, freighting, or sailing of steambaats; and if so, what?

110 Ans. I had to do with the building of one steamboat, and owned part of her, and had something to do with the sailing of that one.

10th int. Have you bought and sold steamboats on your own account, or for other parties?

Ans. I had something to do with the buying and selling of one steamboat for other parties.

11th int. Have you had anything to do with the freighting of steamboats?

Ans. I have not.

12th int. Among steamboatmen in New York, state, if you know, what is meant by the draft of a steamboat?

(The above objection to the competency of this witness as an expert in the matter of the draft of steamboats is renewed, and upon the same ground.

Allowed, subject to objection.)

Ans. I don't know that I recollect of ever hearing the question discussed as to their being any difference between a steamboat and a sailing vessel. I don't see that there can be any difference.

13th int. What is meant and understood here in New York among shipping men by the statement that a vessel or steamboat draws three and a half feet of water?

Ans. It is meant that she would go in or out of a channel
111 where there was no more than three and a half feet, provided the water was smooth.

14th int. In what condition as to freight or cargo?

Ans. That would not make any difference whether she was loaded or not, provided that was her draft.

15th int. If a statement is made that a vessel or steamboat draws 3½ feet of water, what is understood among shipping men in New York as to her being light or being loaded in connection with that representation or statement?

Ans. That would depend upon the object of making that representation, whether it was with a view of her being employed in trade or not.

16th inst. If the representations were made in connection with her being employed in trade or upon a particular route?

Ans. I think it would depend upon the custom of the particular route —whether they were to carry cargoes or not.

The examination of the witness was here closed.

E. RICHARDSON.

The examination was here adjourned to the 12th day of April, 1865, at 3 o'clock p. m.

PETER STARR,
J. W. HOWE,
Commissioners.

112 APRIL 12TH, 1865.—At 3 o'clock p. m. the complainant and defendant duly appeared, by their respective counsel, and the examination was further adjourned to the 15th day of April, 1865, at 2 o'clock p. m.

APRIL 15TH, 1865.—At 2 o'clock p. m., the complainant and defendant duly appeared, by their respective counsel, and the examination was further adjourned to the 17th day of April, 1865, at 3 o'clock p. m.

APRIL 17TH, 1865.—At 3 o'clock p. m., the complainant and defendant duly appeared, by their respective counsel, and the examination was further adjourned to the 22nd day of April, 1865, at 2 o'clock p. m.

APRIL 22nd, 1865.—At 2 o'clock p. m., the complainant and defendant duly appeared, by their respective counsel, and FRANCIS A. MARTIN, of the city of New York, being duly and publicly sworn and examined as a witness on the part of the complainant, Henry B. Slaughter, doth depose and say:

1st int. What is your name, age, residence, and occupation?

Ans. Francis A. Martin; 40 years of age; city of New York;
113 occupation marine inspector.

2nd int. What is the nature of your business as marine inspector?

Ans. To examine and judge of the condition of vessels, and their qualities.

3rd int. What kind of vessels?

Ans. All kinds—sailing-vessels and steamers.

4th int. How long have you been engaged in that business?

Ans. Five years as a marine inspector.

5th int. Prior to that time in what business were you engaged?

Ans. Ship master for two years; port-warden for four years previous to that here in New York City; prior to that time for several years I was seaman and officer.

6th int. At what place have you been engaged in the business of marine inspector during the time you have stated?

Ans. In the city of New York.

7th int. To what extent has your business as marine inspector brought you in contact or association with those engaged in the business of shipping here in this city?

Ans. To a very great extent.

8th int. Do you know what is meant by the draft of a vessel or steamboat?

Ans. Yes, sir.

9th int. As that term is used among the shipping men in the
114 city of New York?

Ans. Yes, sir.

10th int. What is meant by the draft of a vessel or steamboat?

Ans. Draft means the distance that a vessel is submerged below the surface of the water.

11th int. What is meant and understood here in the city of New York by those engaged in the business of running vessels or steamboats by the representation or statement that a vessel or steamboat draws three and a half feet of water?

Ans. It means the draft of water that she would draw when loaded.

The direct examination of the witness is here closed, and being cross-examined by the defendant's counsel doth depose and say:

1st cross-int. You have stated that the nature of your business is to examine and judge of the condition of vessels and their qualities, please state for what purpose or with what object your examinations and judgment referred to are made.

Ans. For the purpose of insurance.

2nd cross-int. How does your business derive the title of marine
115 inspector? *Is it* not a public office, is it?

Ans. I inspect vessels for a marine insurance company, and therefore I am a marine inspector. It is not a public office.

3rd cross int. What were your duties as port warden?

Ans. To examine into the stowage of cargoes, note the damage to the same, and the cause of the damage, and the damage to vessels, and the cause, and to recommend the proper repairs to be made to damaged vessels.

4th cross-int. Have you ever examined the stowage of cargoes on river steamboats?

Ans. No, sir.

5th cross-int. Have you ever examined damages to river steamboats?

Ans. Yes, sir.

6th cross-int. In the course of your business as port warden; and if so, with what view?

Ans. Yes, sir; with a view to ascertain the cause and amount of the damage, and to have the damage properly repaired.

7th cross-int. In the employ of what company or companies have you been marine inspector?

Ans. Washington Marine Insurance Company.

8th cross-int. How many other marine inspectors are there for that company?

Ans. No others.

9th cross-int. What steamboats have you examined damages
116 to?

Ans. Knickerbocker, for one; the Joseph Johnson. I don't think of the names of any others now.

10th cross-int. Were the others many or few?

Ans. Many.

11th cross-int. Was there anything in your examination of such vessels as port warden that caused your attention to be directed particularly to what was meant, or is meant, by the draft of a river steamboat?

Ans. No, sir.

12th cross-int. Has there been anything in your business at any time that has caused your attention in the course of your business, and in discharging the duties of it to be directed to what is meant by the draft of a river steamboat?

Ans. Yes, sir.

13th cross-int. What?

Ans. It is part of my business in examining a vessel to find out her draft of water. I keep a record of every vessel, and that forms part of the record—the draft of water as well as the tonnage.

14th cross-int. Your last answer relates entirely to your business as marine inspector; does it not?

Ans. Yes, sir.

15th cross-int. Do you wish to be understood as saying, that you examine in all cases as to the tonnage of a vessel as well as her
117 draft of water?

Ans. No, sir; I do not. I don't mean to say that I examine into the tonnage. I inquire her tonnage of the captain or owners in all

cases where I can find them, and if I can't find them I may take it from somebody else.

16th cross-int. What means do you take of ascertaining the draft of water as referred to by you?

Ans. If the vessel has ever been loaded, I take the same means I do of ascertaining the tonnage.

17th cross-int. Suppose the vessel has not been loaded?

Ans. Then from the build of the vessel or model and the depth of hold. I judge for myself what would be a proper draft for her to load to.

18th cross-int. Have you ever seen an application to an insurance company for the insurance of a river passenger and freight steamboat?

Ans. Yes, sir.

19th cross-int. Do you recollect any particular one?

Ans. No; I do not. Yes, I do, too. I correct myself there. We took a line on one the other day.

20th cross-int. Did the application describe her draft of water?

Ans. I think not. If it did it was something very unusual.

21st cross-int. Don't vessels have the number of feet they draw
118 marked in consecutive numbers on their bow or stern, or both?

Ans. Almost always. Yes, sir.

22nd cross-int. Those numbers are supposed to be truly marked, are they not?

Ans. They are supposed to be. Yes, sir.

23rd cross-int. Would you hesitate on an application for insurance to take the marked numbers as being true?

Ans. That would very much depend on the voyage the vessel was going to make.

24th cross-int. What do you mean?

Ans. I mean that if there was plenty of water, I wouldn't care whether they were true or not, but if she was going to cross any bar or shoal, and the marks indicated about the same water that there might be on the shoal or bar, I should expect the owner or person making the application, would guarantee that the marks were true.

25th cross-int. Are these marks put on—the numbers I mean—when the vessel is built?

Ans. Usually; yes, sir.

26th cross-int. Would it not be an absurdity for the builder to mark the draft of vessels built by him falsely?

Ans. I don't think that absurd would be the term. I would say it would be very dishonest.

27th cross-int. Could he make anything by it?

Ans. Yes, he might.

119 28th cross-int. How?

Ans. By having agreed to build a boat to draw a certain draft of water, and then finding she drew more, by shifting the marks to make her correspond to the contract he might make a good deal by it.

29th cross-int. But this would be quite an exceptional case?

Ans. That I don't know, how often, or whether it ever is done. It could be done.

30th cross-int. Can you conceive of any other motive for doing it?

Ans. Yes, sir. He might build the vessel on his own account and want to sell her.

31st cross-int. Then he would have to false-mark her, and so might lose a customer who would take her at her real draft, but not at her falsely-marked one?

Ans. No; I don't think so.

32nd. cross-int. How not?

Ans. Because I don't think a man would prefer a greater to a less draft of water in buying a steamboat.

33rd cross-int. Did you ever know of an instance in which the numbers spoken of were falsely marked?

Ans. I don't know that I ever did of a steamboat.

The cross-examination of the witness was here closed.

120 FRANCIS A. MARTIN.

PETER STARR,
J. W. HOWE,
Commissioners.

The examination was here adjourned to the 24th day of April, 1865, at 3 o'clock, p. m.

APRIL 24TH.—At 3 o'clock, p. m., the complainant and defendant duly appeared, by their respective counsel, and the examination was further adjourned to the 18th day of May, 1865, at 3 o'clock, p. m.

MAY 18TH, 1865.—At 3 o'clock, p. m., the complainant and defendant duly appeared, by their respective counsel, and CHARLES J. FISHER, of Boundbrook, New Jersey, being duly and publicly sworn and examined as a witness on the part of the complainant, Henry B. Slaughter, doth depose and say:

1st. int. What is your name, age, residence, and occupation, and your place of business?

Ans. My name is Charles J. Fisher; age, 46 years; residence, Boundbrook, New Jersey; occupation, stevedore; my place of business, 110 Wall street, New York City.

2nd int. What is the nature of your business as a stevedore?

Ans. Loading and discharging vessels.

121 3rd int. How long have you been engaged in that business?

Ans. About eighteen years, in this city.

4th int. Prior to that time what business were you engaged in?

Ans. I followed the sea.

5th int. Do you know what is meant by the draft of a vessel or steamboat?

Ans. Yes, sir.

6th int. What is meant here in the city of New York by the representation or statement that a vessel or steamboat draws three and a half feet of water, among those engaged in the business of running steamers?

Ans. I should consider that her loaded draft—her draft when loaded.

7th int. You mean loaded with an ordinary cargo?

Ans. Yes, sir.

The examination-in-chief of the witness was here closed, and the counsel for the defendant, Gerson, stated that he had no questions to ask.

(Witness recalled by the counsel for the complainant, Henry B. Slaughter.

His further examination is objected to by the counsel for the de-

122 fendant on the ground that the examination was closed.

Further examination allowed, subject to the above objection.)

8th int. In the 6th interrogatory you were asked "What is meant here in the city of New York by the representation or statement that a vessel or steamboat draws three and a half feet of water, among those engaged in the business of running steamers," and you answered, "I should consider that her loaded draft—her draft when loaded;" now will you please answer the sixth interrogatory? I wish you to state not what you consider, but what is meant here in the city among those engaged in the business of running steamboats or steamers by the representation or statement that a vessel or steamboat draws 3½ feet of water?

(The counsel for the complainant, (Mr. Spaulding,) states that he recalls this witness, and resumes the examination of him for the reason that he (Mr. Spaulding) misunderstood the answer that was given by the witness to the 6th and 7th interrogatories.

Interrogatory objected to by defendant's counsel as leading and suggestive.

Allowed, subject to objection.)

123 Ans. The general impression among all men engaged in that business would be, that would be her loaded draft—her draft when loaded.

The examination-in-chief of the witness was here closed.

Cross-examination by defendant's counsel.

1st cross-int. Have you any other means of knowledge on the subject referred to than such as would be incidental to your business as stevedore?

Ans. I have other knowledge.

Cross-examination of this witness was here closed.

C. J. FISHER.

PETER STARR,
J. W. HOWE,
Commissioners.

The examination was here adjourned to the 22nd day of May, 1865, at 3 o'clock, p. m.

MAY 22ND, 1865.—The examination was further adjourned to May 23rd, 1865, at 3 o'clock, p. m.

MAY 23RD, 1865.—WILLIAM H. WOOD, being duly and publicly sworn and examined for complainant, testified as follows:

124 1st question. What is your name, age, residence, and occupation?

Ans. My name is William Henry Wood; my age is forty-six; I reside in Suffolk County, Long Island; I am a captain of a steamboat.

2nd ques. Do you know the steamer George Law, now called the Minna; and how long have you known her?

Ans. I have known her ever since she was built; she is twelve or fourteen years old.

3rd ques. Was you ever employed on her in any capacity? and if so, state where and in what capacity.

Ans. I was employed as captain of her about six years ago.

4th ques. On what route?

Ans. On Long Island Sound, Belview, Glen Cove, Oyster Bay, Huntington, Northport, and New York.

5th ques. How long did you sail her as captain?

Ans. One season—almost eleven months; and also the next spring, about two months.

6th ques. Who was her owner at that time?

Ans. Thomas Collyer.

7th ques. Do you know to whom he, Collyer, sold the vessel?

Ans. He sold to a gentleman named Gerson.

8th ques. When?

Ans. Three years ago this spring.

125 9th question. At the time of the sale of the vessel to Gerson were there any figures or numerals on the stern or bow of the vessel to indicate her draft of water?

Ans. No, sir.

10th ques. What was the draft of the George Law?

Ans. (The witness asks light or loaded.)

11th ques. Both light and loaded.

Ans. She draws four feet four inches light, and four feet eight inches loaded.

12th ques. Explain what you mean by the word "light," and what by the word "loaded," and what is generally meant by them.

Ans. I mean by the word "light," when the boat's boiler is full of water, and coal enough on board to run the route where she is running; she carries about six tons of coal when we used to run her. I mean by the word "loaded" when she has her freight and passengers on board, in addition to her coal and water. I understand the above to be the general meaning of the words.

13th ques. How much water did she draw without freight and passengers, and without coal or water?

Ans. I never measured her. I should think she would draw about three and a half feet.

Cross-examination by the defendant's counsel:

126 1st ques. What boat were you captain of at the time of the sale of the George Law by Mr. Collyer to Mr. Gerson, as above testified by you?

Ans. The steamboat Long Island.

2nd ques. How long had you been captain of the Long Island at the time of the sale of the George Law, spoken of?

Ans. Two years.

3rd ques. Did you see the George Law or Minna at the time of her sale to Mr. Gerson?

Ans. I did, sir. I had charge of her; she was laid up.

4th ques. Did you have charge of her when you were on your trips as captain of the Long Island?

Ans. No, sir. Both boats were laid up when I had charge of the Minna, at the time of her sale.

5th ques. At what pier was the Minna laid up?

Ans. Forty-fourth street, East River, at Collyer's yard.

6th ques. Do you speak from general impression, or from having looked at the figures, particularly when you say she had no figures on her stern at the time of her sale?

Ans. I know there were none there.

7th ques. Do you know whether there ever had been any there?

Ans. None to my knowledge.

8th ques. Was she coppered at that time?

127 Ans. She was about two-thirds coppered. Her bottom—what we call her flat—was not coppered.

9th ques. Was she out of the water at the time you speak of?

Ans. She was in the water at the time of the sale.

10th ques. Was there any appearance about her stern, as of extra paint, that might have covered her numbers?

Ans. Never saw any. I have painted her stern and stem both, myself, and saw no letters or figures there.

11th ques. I wish to call your attention particularly to this matter of the letters or figures indicating her draft, because I have been informed by the superintendent in her building that he calculated those numbers, and either put them on himself, or had it done. State, then, cautiously, whether or not there were any such numbers or numeral letters or signs of them.

Ans. I never saw any figures, or letters, or signs of them, either on her stern or stem.

12th ques. Can you state, upon your oath, that such figures or letters were not upon either her stern or stem at the time you painted her, or any signs of such?

Ans. I can, because I never saw any such, or any signs of any, being painted there, or nailed on, nor cut on.

128 13th ques. Was it about the time of the sale that you did this painting?

Ans. It was about three months before the sale when she was hauled off the New Brunswick route.

14th ques. Was the sale to Gerson by her owner, Collyer, himself, or by his executor after his death?

Ans. By his executor.

15th ques. Was your painting done in Collyer's lifetime?

Ans. Yes; part of it.

16th ques. When you testified as to the draft of the Minna, how had you ascertained her draft so as to be able to state how much she drew?

Ans. By measuring her as she sat in the water at different times.

17th ques. What was the occasion of your measuring her?

Ans. To know her draft of water. We were bothered for water at the landings.

18th ques. Where was she lying when you measured?

Ans. I have measured her at Peck's slip, New York; at Northport, and at Forty-fourth street, New York.

19th ques. Was there any difficulty about measuring her?

Ans. No, sir.

129 20th ques. Does not Peck's slip lie next to the slip of the Fulton-street Brooklyn ferry?

Ans. No, sir; one pier above—Beekman street, and then Peck slip is next.

21st ques. Is not Peck slip itself a Brooklyn and New York ferry slip?

Ans. It has been. But what we call Peck slip is the steamboat pier the New Haven and Hartford steamboats lie at.

22nd ques. Is there not another Brooklyn and New York ferry slip one pier above this Peck slip?

Ans. There was a Williamsburg ferry at Peck slip, but it has been down for several years.

23rd. Describe the process of measuring the Minna which you used when you measured her.

Ans. I most generally took a piece of board or stick, and drove a nail or a spike into it, and that made a kind of a square to hook under her keel, and then I took the measure from the top of the water on that.

24th ques. What part of the boat were you at when you measured her?

Ans. I was on her rudder.

25th ques. Was your measure from her keel at the rudder to the water surface perpendicularly above that point?

130 Ans. I measured from her keel on her sternpost perpendicular, as near as I could get it,

26th ques. Does not her sternpost run slanting?

Ans. I can't say whether it runs exactly plumb or not. They try and get them as nearly plumb as they can when they build them.

Redirect examination by complainant's counsel:

1st ques. Have you ever measured the draft of this vessel in any other way than you have stated in your cross-examination?

Ans. I have measured around her when she has been aground.

2nd ques. When and where was that?

Ans. At Oyster Bay dock, the season I saw her there.

3rd ques. In what depth of water did she ground?

Ans. Almost four feet five inches. I sounded around her.

4th ques. Light or loaded?

Ans. She had on 60 or 70 passengers and five or six cart-loads of freight or merchandise.

W. H. WOOD.

PETER STARR,
J. H. HOWE,
Commissioners.

131 The testimony-in-chief on the part of the complainant, under this commission, is here closed.

The further execution of this commission is adjourned to Wednesday, May 24th, 1865, at 1 o'clock p. m.

The further execution of this commission is further adjourned, by consent, to Thursday, June 29th, at 1 o'clock p. m.

THURSDAY, *June 29th.*—Counsel for both parties present.

WILLIAM H. HAZARD, Jr., a witness produced for the defendant, Julius Gerson, being duly sworn, testified as follows:

1st ques. What is your name, age, residence, business, place of business in February, and March, and April, 1864, and how long have you been engaged in such business, and in what city?

Ans. My name is William H. Hazard, jr.; my age is twenty-seven years; I reside at No. 146 East 14th street, New York City; I am a shipping and commission merchant; my place of business in February, March, and April, 1864, was at 192 Front street, in this city, over David O'Neal's tobacco store; I have been engaged in the business I have mentioned as clerk and principal from 8 to 10 years in this city.

132 2nd ques. Were you present during a portion of the examination of Jeremiah Counsellor, as a witness under this commission, and are you the same William H. Hazard whom he identified?

Ans. Yes, sir; I am.

3rd ques. About the 27th day of February, 1864, had you an advertisement in the Journal of Commerce, published in this city, of which advertisement the paper now shown you is a copy? If yea, please read the copy as a part of your answer, and state whether the copy was made by yourself.

Ans. Yes, sir. I made the copy of the advertisement now shown me.

I reads as follows: "For sale, a splendid new side-wheel steamboat, 106 ft. length, 23 ft. beam, 34-inch cylinder, and 6 ft. stroke; draft 3 ft. 10 inches. Also new side-wheel steamer, 100 ft. length, 21 ft. beam, 34-inch cylinder. Also tug-boat, side wheel 99 ft. length, 19 feet beam, 28-inch cylinder, and 6 ft. stroke. Also several small light-draft schooners.

"Apply to

"W'M H. HAZARD, JR.,
"192 *Front.*

"FEB'Y 27, '64."

4th ques. Did that advertisement relate either to a steamboat called the "Meta," or to the steamboat "George Law," otherwise called the "Minna?"

Ans. No, sir; it did not.

133 5th ques. By the expression, "draft 3 ft. 10 inches," in that advertisement, what did you mean, and what did you expect to be understood as meaning?

(Question objected by complainant's counsel as irrelevant, it appearing by the previous answer that said advertisement did not relate to the steamboat in question in this action.)

Ans. (subject to objection.) I meant that she would draw that light; in other words, with her coal and stores on board. I expected that to be understood as my meaning.

6th ques. What is the customary understanding of that kind of description of the draft of a steamboat? I do not mean a steamship or a sailing vessel.

Ans. It is the customary understanding that when "3 ft. 10 inches" are given as the draft of a steamboat, it is her draft with her coal and stores on board.

7th ques. Have you dealt much in buying and selling steamboats, and in describing them when "For sale," or "Wanted to purchase," and if so, how much?

Ans. I have. I have bought and sold quite a number, but how many I could not tell without looking on my books. That has been my principal business.

134 8th ques. In giving, as part of the description, simply the number of feet and inches draft of such steamboats, without anything more than draft, so many feet and inches, what has always been your meaning; how have you always expected to be understood?

(Objected to as irrelevant and incompetent.)

Ans. (subject to objection.) My meaning has always been that she would draw that light, or with her coal and stores on board. I have always expected to be so understood.

9th ques. To return to your advertisement. Did you receive any call in answer to that advertisement; if so, who called, at what place, and about how long afterwards; give the full particulars?

Ans. I did, sir, from several persons. I cannot name all the persons. I recollect of two gentlemen calling, one of whom was Mr. Joel Slaughter, as I found out before he left the office. I don't know the name of the gentleman who called with him. Mr. Slaughter said he had seen my advertisement, and wanted to know if I could suit him with a boat. I told him I thought I could, and read him particulars of several steamboats. He then described to me what kind of a steamboat he wanted.

He said he wanted a side-wheel passenger steamboat, light draft,
135 fast boat, to run on a route; he wanted to know what kind of boats those were that I had advertised. I showed him the de-

scriptions and the prices. Some of them did not suit him on account of draft and price. I then gave or read him the description of the steamboats "Meta," "Minna," and "Staurford." He said he had just been looking at the "Staurford," and liked her very much, but the price was too high. The "Meta," I think he said, was too small, and the "Minna" suited him better than any of them. We talked some time together about steamboats, but he said that he and his friend was going out of town that night, and wouldn't be back for a day or two. I promised to look around for him, and see if I could get him any boat that would suit him better than the ones I had read him the description of. I asked him if he would give me his address, so that I could leave any memorandum, if I found any boats for him. He said, however, he would call when he came in town. He told me he was stopping at the Merchants' Hotel, in Courtland street, and told me at the same time I could write to his father, Mr. Henry B. Slaughter, Crompton, Queen Anne's County, Maryland, as he was only on here looking after the boat, and it would have to be submitted to *to* his father first. He left the office then. This was at No. 192 Front street, New York, and I can't say how long it was after my advertisement first appeared, but I should say not long.

136 The further examination of this witness was adjourned to Friday, June 30th, at 3 o'clock p. m.

JUNE 30TH, 1865.—Counsel for both parties present.

The examination of WILLIAM H. HAZARD, JR., was continued, as follows:

10 ques. When Joel Slaughter said he wanted a steamboat to run on a route, what were his words, and did he describe the route; and if so, in what way did he describe it?

Ans. As near as I can recollect at present, he said he wanted a boat to run on a passenger route. She must be fast and light draught. He did not describe the route particularly.

11th ques. Did he describe the route as to the points or ports between which it lay, or the locality of the route? if he did, give the description.

(Objected to by complainant's counsel as, 1st, leading; 2nd, because the witness has already detailed the conversation that took place, as far as he can recollect it.)

Ans. (subject to objection.) My impression is—I can't swear positively—that she was to run between Baltimore and Crompton.

12th ques. Do you recollect whether or not he adverted to the depth or shallowness of water on the route; if so, what did he say?

Ans. I don't think he did.

137 13th ques. Had you ever seen or heard of Joel Slaughter or Henry B. Slaughter prior to this interview with Joel Slaughter?

Ans. No, sir.

14th ques. Can you produce and read in evidence the description of the "Meta," the "Minna," and the "Staurford" in the same words as you read it to Joel Slaughter upon the occasion referred to? if so, please produce and read the same in evidence, and state what you read from, and whether you read from the same to Joel Slaughter upon the said occasion.

Ans. I could do so if I had the book. I can and will produce it.

The further examination of William H. Hazard, jr., was adjourned to July 11th, 1865, at 1 o'clock p. m.

JULY 11TH, 1865.—The examination of WILLIAM H. HAZARD, Jr., was resumed, and he further testified as follows:

15th ques. The 14th question repeated.

(Objected to by complainant's counsel.)

Ans. I can, sir. I read from my memorandum-book, a pocket diary: "Steamer Meta, foot of Barclay street; 150 f't long, 25-foot beam, 7½ hold; cylinder, 28 inches; 8-foot stroke; 5 months old; 14 miles;
wheel, 22 feet 6 inches by 5 feet 2 inches; draft, 3 feet 2; boiler,
138 year old; $45,000. Steamer Minna, 33 Park Place; 151 feet
long, 23 feet beam, 7 feet 6 inches depth, 3 to 4 feet water; cylinder, 35 inches; 7 feet stroke; will guarantee 16 miles per hour; $36,000 as she is, or $40,000 with new boiler;" Gerson. Steamer Staurford, length 160 feet, 25 feet beam, 8 feet depth; cylinder, 36 inches; 8 feet stroke; 10 months old; run but 6 months; ask $55,000; draft of water, 4 feet. I read these descriptions, and from this memorandum-book to Joel Slaughter, on the occasion referred to.

16th ques. Explain what the expression "draft 3 feet 2 inches," in the description of the Meta, was intended to mean, and what you meant by it.

(Objected to by complainant's counsel.)

Ans. It means 3 feet 2 inches—the draft of water of the boat.

17th ques. The draft of the boat in what condition?

(Objected to as leading, and because the witness has already answered the question.)

Ans. As I supposed it, with her stores and coal on board.

18th ques. Explain in like manner the expression, "3 to four (4) feet water" in the description of the Minna.

(Objected to as incompetent.)

139 Ans. That it was the draft of water of the boat with stores and coal on board.

19th ques. And "draft water 4 feet" in the description of the Staurford?

(Same objection.)

Ans. That the boat drew four feet with stores and coal on board.

20th ques. By whom were the above entries in the memorandum-book produced made?

Ans. By me.

21st ques. At the time when you read these entries to Joel Slaughter had you been employed by any person to sell or offer for sale either of these boats; if so, which, and by whom?

(Objection.)

Ans. I think not.

22nd ques. Can you speak with certainty on this point as to either one of the boats, that you had or had not been employed to sell or offer it for sale; if so, as to which boat can you so speak with certainty, and what is the fact about it?

Ans. I had a party wishing to purchase a steamboat, and in trying to find one for him I came across the boats named in the memorandum-book, and got the descriptions from, sometimes the owner, and sometimes the captain.

23rd ques. In obtaining the description, how did you represent yourself to be acting?

140 (Objection; question withdrawn.)

24th ques. In obtaining the descriptions did you represent yourself to be actuated by any reason; and if so, what reason? and was any

authority conferred upon you in regard to the boats; and if so, what authority, and by whom?

(Objected to as leading and otherwise.)

Ans. I don't answer that question. I don't understand it.

25th ques. In getting the descriptions of the steamboats, did you give any reason for wanting the descriptions?

(Objected to as leading.)

Ans. The descriptions were got by my clerk, not by myself, or by a man employed by me.

26th ques. What was the name of the person who got them, and where is he now?

Ans. His name was William Hazzard, I think. I don't know where he is now.

27th ques. State, to the fullest extent, whether you had any, and if so, what authority, and from whom, and how conferred, in regard to the Minna at the time when you read the above descriptions to Joel Slaughter.

(Objected to as leading and otherwise.)

Ans. I had no direct authority from any one, but as my man had procured the descriptions and prices, I knew the boats could be bought and were for sale.

141 28th ques. Had you any indirect authority in the matter beyond what you have stated in your last answer?

(Same objection.)

Ans. No, sir.

29th ques. How did the name "Gerson" happen to be entered at the foot of the description of the Minna in your memorandum-book, and who entered it?

Ans. It was given me by my man as the owner or agent of the boat. I entered it in the book.

30th ques. Up to the time when you read the descriptions above detailed to Joel Slaughter, what was the extent of your personal acquaintance with Julius Gerson, the party of that name in this suit?

Ans. My impression is that I had no acquaintance whatever with him.

31st ques. At the interview with Joel Slaughter, you have spoken of his making a remark about the Staurford when you read her description to him; state in full all the objections he made to the Staurford.

(Objected to.)

Ans. As near as I can recollect, after I had read the description to him of the Staurford, he said she was a very fine boat, but the price was too high. That is all I recollect he remarked about her.

142 32nd ques. In these descriptions you speak of the depth of the boat being so many feet, where is the measurement from and to, and in what kind of a line, in rating the depth?

(Objected to.)

Ans. From the deck through the hatch to the bottom of the hold, in a straight line.

33rd ques. Do recollect anything else material to either party, besides what you have already stated, that occurred at this first interview between you and Joel Slaughter? if so, state it.

Ans. I do not think of anything.

34th ques. After Joel Slaughter left at the close of this interview, what was the next thing, so far as your personal knowledge goes, that transpired about the Minna?

Ans. It was that I wrote, after waiting a few days and not hearing from him, to Henry B. Slaughter.

35th ques. Have you a draft, duplicate, or copy of that letter?

Ans. I do not know.

36th ques. Did anything transpire in consequence of that letter; if so what? and was this the next thing in course, so far as you had to do with, about the Minna?

(Objected to.)

The latter part of the question withdrawn, all after the word
143 "what," and the question restated thus:

36th. ques. Did anything transpire about the Minna after you wrote that letter? If so, state what first happened to your knowledge.

Ans. The next thing which I heard in regard to the Minna was, that Mr. Counsellor called, saying that he had received a letter from Henry B. Slaughter, requesting him to call and see me in regard to the Minna.

The further examination adjourned to August 1st, 1865, at 2 o'clock p. m.

AUG. 2ND.—Parties present. Examination resumed.

37th ques. Mr. Counsellor testified that you wrote him a letter requesting him to call, and that he called upon you in consequence of your having written him. Please state how the fact was about this?

Ans. After the letter was written by me to Mr. Slaughter, and some days having elapsed, I wrote a note to Mr. Counsellor, asking him to call at my office, thinking that he might have heard from the Slaughters.

38th ques. Had Counsellor called to see you about the steamboat business in question before you wrote him the letter spoken of in your last answer?

Ans. He had, sir.

144 39th ques. How many times had he called?

Ans. I think not more than once.

40th ques. Now state what occurred the first time Mr. Counsellor called.

Ans. He stated that he had received a letter from a friend, requesting him to see me in regard to a steamboat; I think he said of which I had written particulars to Mr. Slaughter. I then read him the particulars of these boats; asked him what business Mr. Slaughter was in; as to his responsibility. He then gave me a little history of Mr. Slaughter; told me he was a very wealthy man, and that he put up the largest amount of fruit of any man in the country; owned a great deal of land about there; that he wanted this boat to run his own fruit, and keep off, or run off, an opposition line. He went on to tell me then about some land he owned himself in that neighborhood; (objected to,) and that he was anxious to have Mr. Slaughter put this boat on the route; that he thought it would improve his property as well as Mr. Slaughter's. He then proposed that I should write to him, and that he would do the same, which I did while he was there in the office. He promised to let me know if anything transpired, or if he heard anything. I think he then left the office.

145 41st ques. Now I want to know distinctly whether or not it was before this interview just spoken of, or after it, that you first wrote to Counsellor to call and see you?

Ans. My impression is that it was before this interview.

42nd ques. How did you happen to know anything about Counsellor, so as to write to him?

(The witness here states that he cancels his answer to the 41st question; and says in answer to that question that his impression is that it

was after that interview that he first wrote to Counsellor to call and see him.)

43rd ques. Now state distinctly how Counsellor first happened to call upon you, and whether you had been previously acquainted with him, or had written to him?

Ans. He called on account of receiving a letter from Mr. Slaughter, requesting him to call. I had no acquaintance with him before that time, and had not written to him.

44th ques. The witness is here shown a copy letter annexed to the copy answer of Henry B. Slaughter to the original complaint of Julius Gerson, in these proceedings, purporting to be *a* exhibit to that answer, marked "H. B. S., No. 1," dated New York, March 12th, 1864, and is asked if the copy letter shown him is a copy of the original letter written by witness to Henry B. Slaughter, and referred to by witness in
146 his answer to the 40th question?

Ans. Yes, sir.

45th ques. Look at the said copy letter again from beginning to end, and state whether or not any part of the original of it was written by Mr. Counsellor?

Ans. It was not.

46th ques. You spoke in this letter about your having the refusal of the Minna for a few days, from the owners, until you could hear from Mr. Slaughter. Please state fully what grounds you had for writing that to Mr. Slaughter?

(Objected to.)

Ans. After receiving Mr. Slaughter's letter, I called on Mr. Gerson, and stated that I had a party, and had received a letter from them, and I asked him if he would give me the refusal of the boat at the price he named for a few days, until I could hear from him. He said he would, but that I must lose no time, as he thought he could get a good charter for her.

47th ques. You used the words "At the price he named." At what interview was it that he named this price, and were you present?

Ans. He first named it to my clerk, or the man I employed, and I think he named it again at this interview. I was not present when he named it to my clerk.

147 48th ques. Was it after this interview between you and Mr. Gerson, that the letter to Slaughter, of which a copy has been shown you, was written?

Ans. It was.

49th ques. At what place did you write that letter?

Ans. At my office, 192 Front street. Mr. Counsellor waited at my office while I went to Mr. Gerson's and got the refusal; then I came back and wrote the letter. Counsellor was still there.

50th ques. On whose behalf was it that you called on Gerson to get the said refusal?

(Objected to.)

Ans. On Mr. Slaughter's.

51st ques. Did you disclose to Mr. Gerson the name of the party on whose behalf you wanted the refusal, at the interview when you got the refusal?

(Objected to.)

Ans. I don't remember whether I did or did not.

52nd ques. At the interview when you got the refusal, did you state to Mr. Gerson any particulars as to the route or purpose for which the boat was wanted?

(Objected to.)

Ans. I don't think I did.

53rd ques. According to the custom in such cases in the city of New York, what did your getting the refusal of the boat amount to?

(Objected to.)

Ans. That my party should have the first chance over others within the time mentioned.

148 54th ques. You added, by way of explanation, at the close of your last answer, "that is to say, that he should notify me," and then you stopped. What were you about to say as such explanation?

Ans. That he should notify me before he disposed of the boat to anybody else.

55th ques. Give, as near as you can, your words to Mr. Gerson, and his to you, at this interview, askin' on your part, and giving on his, the refusal of the boat?

(Objected to.)

Ans. When I saw him that day I asked him if he was the owner of the Minna? He said he believed he was. I then told him that I had sent and got the particulars from him, and that now I thought I had a purchaser. He then told me that she had been put in thorough order, and I think, said she was then having new boilers put in, which would then make her a first-rate boat; that he would like to sell her. He said he could get a charter from the Government for her, but would prefer to sell. I then asked him if he would give me the refusal for a few days, at the price he had named to my man. He then asked me how long it would be; I told him I would write that day, and let him know just as soon as I received an answer. He then said to me that he could charter her to the Government, and provided it was not a pretty sure chance,

149 as he did not care about losing the charter, as the Government seemed to want her very much. He then said he would give me the refusal for a few days, or until I heard—I promising to let him know, as I stated before.

The further examination was adjourned to August 4th, 1865, at 12 m.

AUGUST 4th.—Parties present. Examination resumed.

56th ques. Did Mr. Counsellor use any expression to you at the interview spoken of, as to the likelihood of Slaughter's buying the steamboat; if so, what was the expression?

(Objected to.)

Ans. He said he thought the boat would suit them, and he had no doubt but what they would buy her.

57th ques. Did he use any expression, at this interview, as to who would succeed in selling the boat to them? If so, state his expression.

(Objected to as leading.)

Ans. As near as I can recollect at present, he said that he had more influence with the old gentleman Slaughter and if any one could sell him the boat he could.

58th ques. Do you wish to be understood as stating upon oath

150 that Counsellor expressed himself as you have just stated? If there is any part you are doubtful about, or certain about, as to what he said, distinguish in your answer to this question what you are doubtful about, and what you are certain about?

(Objected to as leading and cross.)

Ans. I have answered it as near as I can recollect.

59th ques. What do you mean by as near as you can recollect?

Ans. I can't answer that question. I believe I am sworn, and I expect to tell the circumstances as near as possible as they are.

60th. Ques. Your saying as near as you can recollect is ambiguous. Do you mean by it to express a doubt as to whether Counsellor said in substance what you have retailed, or only that you give his words as near as you can recollect?

(Objected to as leading and cross.)

Ans. I give his words as near as I can recollect.

61st ques. Mr. Counsellor has stated, in answer to question 45, in his examination, that after this interview with you, he had interviews repeatedly with you, and was almost daily in communication with you one way or the other. Please state how the fact was about this between the time of this interview and the time when the Slaughters came on to New York again themselves to close about the boat?

151 Ans. I recollect of but one interview with Counsellor between those times. I have no recollection of daily communications with Counsellor.

62nd ques. Or almost daily?

Ans. I have no recollection of almost daily interviews with him.

63rd ques. Is your memory such that if you had been in almost daily communication with him about this matter at the time spoken of, you would have recollected it?

(Objected to as leading.)

Ans. I think I should.

64th ques. The commissioner is requested to read to this witness questions and answers 74, 75, and 76 in the direct examination of the witness Counsellor, which being done, the present witness is asked for his statement in regard to the same matter?

Ans. I was in my office when Mr. Counsellor came in accompanied by three gentlemen whom he introduced to me as Mr. Henry B. Slaughter, his son Mr. Joel Slaughter, and a Mr. Robinson, I think the name is. He spoke of Mr. Slaughter, the elder, as having met with an accident some time previous to that time, which made it very difficult for him to walk, and asked me if I could't get my party to come to the office so as to save Mr. Slaughter from walking any more than possible. I then excused myself from them saying that I would try and get Mr. Slaughter to come over. I left the office and went over to Mr.

152 Gerson's place, 33 Park Place, and saw Mr. Gerson and told him I had the parties in my office, and that they would like to see him about the steamboat, telling him at the same time, I think I mentioned his name, Mr. Slaughter was quite lame and couldn't walk much, and asked him if he could come over to my office with me. He then asked me if they would like to look at the boat. I told him I supposed they would. He said the best plan would be as one was lame was to get a carriage. He sent his young man out and got one. He and I got into the carriage and rode over to my office, 192 Front street. I introduced him to all the gentlemen, and after a few moments conversation, Mr. Gerson asked them if they would like to look at the boat. They said they would. He then said as I had told him one of the gentlemen was lame, he had procured a carriage to take him over. When we got down to the door there was some talk as to how we should all get in to the carriage, when I proposed to walk, and Mr. Joel Slaughter offered to walk over with me. Mr. Gerson said, no, we could all ride well enough, so Mr. Henry B. Slaughter, Mr. Joel Slaughter, Mr. Counsellor, Mr. Gerson, and Mr. Robinson got inside the coach, and I rode outside with the driver. We then drove from there to the foot of

Robinson street, North River, where the Minna was then lying. We went on board.

(Witness stopped by counsel.)

153 65th ques. State distinctly and fully what transpired upon your going on board, after you went on board, and while you staid there up to the time the parties spoken of went ashore?

Ans. On going on board the steamboat, Mr. Gerson asked a man whom I supposed to be the clerk, where Capt. Crawford was. He told him he believed he had gone up town as a witness in some case, but expected him back in a short time. Mr. Gerson then remarked: Gentlemen, here is the boat, now you can look for yourselves, telling them to go anywhere they pleased about her. They went around and examined her, and while doing so, Capt. Crawford came on board, and he was introduced to all the gentlemen present. Mr. Slaughter, the elder, asked some questions about the boiler, and went down into the fire-room to look at them. When he got on deck again, and having examined the boat all over, I believed Mr. Gerson asked Mr. Slaughter how he liked the boat. Mr. Slaughter replied that he thought she would suit him, provided the draft and speed came up to the mark. They then had some talk about the draft, Mr. Slaughter thinking that she would draw more than four feet of water. Mr. Gerson then turned to the capt. and asked him if the boat would draw more than four feet, as he,

154 Mr. Gerson, was no steamboatman, and left all such things with Capt. Crawford. Capt. Crawford then said that he did not think she would draw more than that, nor hardly that. Capt. Crawford then turned to one of the men who had just come out of the fire-room, calling the man by his name, which I don't know what it was, and says: You measured her when she was on the dock, tell us what she measured. He says, yes, and she came short of four feet. They still continued talking about the draft, and Mr. Gerson said that if she drew more than four feet he would give them the boat for one thousand dollars, on the strength of what the captain had said, as he was no steamboatman, and got all his information from his captain. They dropped the subject of draft and went on to the subject of speed. Mr. Gerson said that she would make 14 or 16 miles per hour, but he guessed he could give them her exact time of running between New York and Perth Amboy, including her landings. The captain then said that one of the men had timed her, and he was called up and gave the time, but I don't recollect what the time was. Mr. Slaughter said that was first-rate time. He thought that was rather faster than she could go judging

155 from the boat, and that if she could make the time and drew no more water than they said, he would take the boat, or would like to have the boat. I then spoke up and said the proof of the pudding was in the eating, and the best way to get at the matter definitely was to go down to Amboy on her. Mr. Slaughter, the elder, said he would like to go, but his foot troubled him so much he didn't think he could try it. I then asked Mr. Gerson if he would have any objection to the younger Mr. Slaughter going on the trip so that he might see how the engine worked and how the boat worked. Mr. Gerson then proposed that Mr. Joel Slaughter should go the entire trip remaining at Amboy over night, and coming up in the morning on the boat, and that the rest of us should go down as far as possible, so that we could get back that night, as Mr. Gerson said he couldn't stay over night, and I told him I couldn't either.

It was then agreed that we should go down. Mr. Gerson then called out to the captain as he was about going to the other side of the boat

and told him young Mr. Slaughter was going the trip with him, and that when he got to Amboy he must get him good accommodations and take the best of care of him. We then all agreed to meet at the boat in the afternoon to go down the bay in her. Mr. Gerson and I walked out to the carriage and paid the driver and told him to take the balance of
156 the party to the Merchants' Hotel as they had said something about dinner. I then left them with the understanding that I was to meet them at the boat, and went to my office.

The further examination of the witness Hazard was adjourned to Wednesday, September 13th, at 2 o'clock.

SEPTEMBER 13TH, 1865.

Parties present. The witness Hazard further testified as follows:

66th ques. Did anything further in reference to the matter transpire on the same day spoken of in your last answer; if so, state fully what it was?

Ans. Yes, sir. We met again at the boat at about three o'clock; the boat was to leave at three, I believe. The boat left the dock at the appointed time. Capt. Crawford, Joel Slaughter, and myself were in the pilot-house, and as we left the dock Mr. Joel Slaughter took out his watch and took the time left, and the revolutions she was making. The rest of the part' was distributed in different parts of the boat. I did not see them, as I was in the pilot-house. After we got down the bay a little distance, Mr. Gerson came into the pilot-house and asked young Slaughter how the boat was going. Young Slaughter replied she
157 was going along very nicely telling him the revolutions she was making. I have forgotten what they were. Mr. Gerson then asked Capt. Crawford where he would land us. The capt. said he would put us off at Bergen Point, so that we could take the dummy up to the city. We stopped at Bergen Point. Mr. Slaughter, the elder, Mr. Gerson, Mr. Counsellor, and Mr. Robinson the carpenter, and myself went ashore; Mr. Joel Slaughter remaining on board. We stood on the dock a few minutes looking at the boat as she went off. We then took the dummy from Bergen Point to Jersey City. Arriving at Jersey City, Mr. Gerson and myself left the rest of the party with the understanding that we should all meet at the boat next morning on her arrival at the city. Mr. Gerson and myself crossed the ferry to New York.

67th ques. On the trip from Bergen Point to Jersey City did you hear any conversation between Mr. Gerson and the elder Mr. Slaughter; if so, what was it?

Ans. I saw them talking together but did not hear the conversation.

68th ques. How were they sitting with reference to each other?

Ans. I can't say—it was so long ago.

69th ques. What transpired the next day about the boat?

158 Ans. We all met at the pier where the boat was due, and, after some delay, the boat arrived. We went on board the boat and went into the upper saloon. I asked Mr. Joel Slaughter how he liked the boat. He said he had had a good opportunity to judge of her, for it had been very rough coming up, and that she was the only boat that came up that morning—the rest of them staying below. Capt. Crawford and the two Slaughters then had a long conversation together, which I did not hear, as I sat on the other side of the boat from them. After they had talked a short time together Mr. Gerson stepped up to them and asked them if they had come to any decision about the matter, as he was in a hurry to get back to his office. Mr

Slaughter, the elder, replied to Mr. Gerson that the report from his son was very favorable, but that he thought the price was too much, and he wanted a little longer time to think of it. Young Slaughter then said to his father that if they took the boat Mr. Gerson ought to put more furniture in. Mr. Gerson then said that she was well supplied, and that if they didn't want the boat he could charter her to the Government, and he was expecting a dispatch any moment that they would take her.

Mr. Gerson's young man then came up to the cabin and handed
159 him a dispatch; after reading it, Mr. Gerson said he must go to his office, and he wanted to know from Mr. Slaughter at what time he would be ready to give a decision. They agreed upon one o'clock that afternoon to meet at Mr. Gerson's office. I then left and went to my office. We—Mr. Gerson, Mr. Counsellor, Mr. H. B. Slaughter, Mr. Joel Slaughter, Mr. Robinson, and some gentleman in Mr. Gerson's office, whose name I don't know, and myself—met at Mr. Gerson's office. The gentleman whose name I didn't know was sitting in the office. They had a long talk over the old matter again, and finally Mr. Slaughter said he would take the boat if the terms he proposed were satisfactory—which were, I believe, to pay forty thousand dollars—part cash—part in instalments; and the boat was to be kept insured. They had some talk then about papers, and some one of the party—Mr. Counsellor I think—suggested that they should be drawn by a lawyer. They then had some talk about who should pay for drawing the documents up. Mr. Richardson's name was mentioned as the man best to be called in, and I think Mr. Counsellor started for him. Mr. Slaughter then said he would pay fifty dollars to bind the bargain. I suggested it, and he paid it and took a receipt from Mr. Gerson telling him that his son would
160 remain here while he went over to Baltimore to arrange for the funds and send them on. I bid the party good bye and left.

70th ques. Give the particulars of the long talk over the old matter referred to by you in your last answer, as having occurred at your meeting at Mr. Gerson's office, as near as you can recollect?

Ans. I can't give the particulars excepting to say that they talked about the draft, size of the boat, price, condition, speed, and accommodations for passengers.

71st ques. In speaking of the draft of the boat, was it spoken of once or many times; and if more than once, about how often was it referred to? I mean at this meeting.

Ans. It was a number of times—how many I can't say.

72nd ques. Please to tax your memory to relate as near as you can what was said about it at the different times when it was referred to?

Ans. Mr. Slaughter seemed to be afraid that the boat would draw more water than they said for. It would be impossible for me to tell it particularly. All I know is that they talked a great deal about the draft of water. There were so many talking at the time, first one asking a question and another answering it, that it would be impossible
161 for me to tell exactly what they said.

The further examination of this witness Hazard was adjourned to September 21st, 1865, at 2 o'clock.

SEPTEMBER 21ST.—Parties present. The witness, William H. Hazard, jr., further testified, as follows:

73rd ques. Can you recollect, as between Mr. Henry B. Slaughter and Mr. Gerson, whether these two spoke of the draft to and with each other at this interview more than once; and if so, how often, and as near as you can recollect, what was said each time?

Ans. The' did talk with each other about the draft; I can't say how many times, as near as I can recollect—I can't answer that part of the question.

74th ques. Can you state in substance what Mr. H. B. Slaughter said in general at the interview about the draft, and in substance what Mr. Gerson said in general in reply?

Ans. Mr. Slaughter seemed to be very particular about the draft, and if I mistake not, explained the route which the boat was to go on, and he asked Mr. Gerson if that was the right draft. Mr. Gerson said
162 that he was no steamboatman, but relied on what his capt. told him.

75th ques. After you leaving the parties at this interview, as you have spoken of, what next occurred, to your knowledge, about the boat and the sale of it?

Ans. My impression is that I received a letter from Mr. Slaughter next.

76th ques. What next occurred?

Ans. I called on Mr. Gerson, as requested in the letter, and then answered Mr. Slaughter by mail.

77th ques. What next occurred?

Ans. I think the next thing was that Mr. Counsellor called on me and stated that Mr. Slaughter would be in town, and requested me to meet him at the Merchants' Hotel at a stated time. The time I don't know.

78th ques. Please go on and state what next occurred.

Ans. I met Mr. Counsellor and Mr. H. B. Slaughter at the Merchants' Hotel by appointment, and after a few moments' conversation the subject of the Minna was brought up. Mr. Slaughter said that somebody, or that the boat had not been represented to him as she was. I then told him that I wished to know, before we meet any further, if I had misrepresented the boat to him or had in any way tried to deceive him. He said he did not consider that I had deceived or attempted to deceive
163 him, but was perfectly satisfied with what I had done. He furthermore said that he didn't believe Mr. Gerson meant to deceive him, but that Mr. Gerson was mistaken about the draft. He said that Mr. Gerson seemed to be a very fair, square, sort of a man, and thought that Mr. Gerson, if he could see him, would and should take something off. I then asked him what was the trouble with the boat. He said she drew more water that Mr. Gerson represented. I asked him how much water she drew, and I think he said five feet; that she couldn't cross their bar, and she had caused him a great deal of trouble and had made the passengers very angry, I think he said, for his little boat Chester could run right around her while she was lying on the bar or aground. I asked him if he was sure about the water around the boat at the time. Mr. Counsellor then spoke up and said, Yes; I have measured it, (meaning the water,) myself. I asked him how he did it, and he said he did it with a pole, and that he went all around her. I asked him what kind of ground it was. He said it was sandy. I then told him I didn't see how he could measure accurately. He said he stood on the side of the boat and lowered the pole so it would just touch bottom, and then measured when he brought it up. I asked him if the pole didn't sink into the sand while he was measuring. He said, Oh, no; he was
164 very careful. I then asked Mr. H. B. Slaughter how he liked the rest of the boat—the speed, et cetera. He said he had no fault to find with her, excepting the draft. As far as her speed was concerned, she could beat anything on the river. I told him I didn't know how he could be deceived, for he hadn't relied on anything anybody said, but

had examined for himself. And he said, upon the draft, he had relied on what Capt. Crawford said more than upon his own judgment. I think he said next that he would like to see Mr. Gerson, but that his limb troubled him so that he didn't think he could walk up there. I told him I thought that was the better way for them to see each other, as I had no authority to say anything for Mr. Gerson, and I offered to go up and try to get Mr. Gerson to come down, if he wished me to. I went up to Mr. Gerson's place, No. 33 Park Place, and saw the gentleman there who was present when the bargain was closed, and stated to him that Mr. Slaughter was at the Merchants' Hotel and wished to see Mr. Gerson. He informed me that Mr. Gerson was out of town, and would not be in, if I recollect rightly, for two or three days. I then went back to the Merchants' Hotel and saw Mr. Slaughter, and informed him that Mr. Gerson was not in town, and would not be in for the time he told me. I asked Mr. Slaughter if he wouldn't remain till Mr.
165 Gerson came in town. He said he could not, he must be home. He said he had come on here to try and have this matter fixed up. He said he thought Mr. Gerson ought to take the boat back or take something off. He said he would like to get rid of her. I asked him if I had an offer for the boat, I should write to him. He said, Yes; that he would answer immediately. I told him I was very sorry the trouble had happened, and hoped he didn't blame me. He said he had nothing whatever against me, and didn't blame me in the matter. I bid him good-bye, and left. I believe he did say though that Mr. Gerson would to wait a great while before he got that, (referring to the money, I suppose,) out of him.

79th ques. Were you ever paid any commission in the matter? if so, state upon what occasion and under what circumstances. State all that transpired about it.

Ans. I was; by Mr. Gerson. At the interview, when the bargain was closed, we, or I, had some talk with Mr. H. B. Slaughter about the commission. One word after another led on till Mr. Joel Slaughter said, because I had asked commission, it was an imposition, and that if he was his father he wouldn't submit to such an imposition. At that young Mr. Slaughter and myself had a few words together. Mr. H. B.
166 Slaughter then said, that if that was the case, that he had to pay commission, he wouldn't take the boat. I then spoke up and told them, that rather than have Mr. Gerson lose the sale of his boat, I would say nothing about the commissions, but I could collect them if I was a mind to do so. Mr. Gerson then said there was no use having any words about it, asking me if I would be satisfied with what arrangements he made. I told him I would, and would leave it entirely with him, and we settled it between us.

WM H. HAZARD, JR.

The examination of the witness, William H. Hazard, jr., was here closed, and the witness was not cross-examined.

PETER STARR,
J. W. HOWE,
Commissioners.

THURSDAY, *September* 28*th*, 1865.

Counsel for both parties present. Captain JOHN CRAWFORD, a witness produced for the defendant, Julius Gerson, being duly sworn testified as follows:

1st ques. What is your name, age, residence, business, and how long have you been engaged in it, and where?

Ans. John Crawford; age, 53 years; residence, Keyport, New
167 Jersey; business, boatman; captain of steamboat; have been engaged in it 30 years in and about the harbor of New York, North River, and East River. 20 years of my time I was running between Keyport and New York.

2nd ques. Are you acquainted with Julius Gerson, Henry B. Slaughter, Joel Slaughter, Jeremiah Counsellor, and William H. Hazard?

Ans. Yes, sir.

3rd ques. Were these parties, and a man from Baltimore named Robinson, and represented to be a ship-carpenter, at any time present with you on board the steamboat Minna, at her pier in the city of New York?

Ans. Yes, sir.

4th ques. Who were the officers of the Minna at that time?

Ans. Myself, captain; John H. Golding, engineer; John H. Hadkins, clerk.

5th ques. What was the business upon which the parties enquired about in interrogatory 3 were present on board the Minna at the time enquired of?

Ans. To look at the boat, for the purpose of purchasing, I suppose.

6th ques. Which of these parties did you then become acquainted with for the first time?

Ans. I was introduced then by Mr. Gerson to Mr. Henry B.
168 Slaughter, Joel Slaughter, and I don't think Mr. Robinson was then there. I am not certain Mr. Counsellor was there; that was the first of my acquaintance with them. I didn't know them at all.

7th ques. Was this the first time they were on the boat to your knowledge?

Ans. Yes, sir.

8th ques. At this interview was the draft of the steamboat Minna spoken of; if yes, what was said about it, and by whom?

(Question excepted to as leading by plaintiff's counsel.)

Ans. It was spoken of at the time. Mr. Henry B. Slaughter asked me if I knew how much water she drew. I told him I did, for I had had her on the dry dock and measured her. I told him she drew three feet and a half of water on each end. I then told him I thought she drew four feet of water amidships, with her usual coal and water, to make a round trip to Amboy and back. I then took him out on the dock and showed him how high she was coppered up. The copper was three feet and nine inches from the bottom of her keel on her stern post. That copper showed three inches out of water, which they all acknowledged looking at it off of the dock. That is about all of the conversation.

There was a good deal said about her draft of water; how much
169 she would draw loaded, and how much light.

9th ques. Please to repeat everything, as nearly as you can, that was said between you and Henry B. Slaughter at this interview about her draft, whether light or loaded, or bearing upon her draft in any way. Let your answer distinguish between what Slaughter said on his part, and what you said on your part.

(Objected to as leading by plaintiff's counsel.)

Ans. After the conversation that I have just stated took place, Mr. Henry B. Slaughter and Mr. Joel Slaughter, his son, both asked me how much water I thought she would draw loaded. I told *that* that depended altogether upon what kind of freight he carried. I told him that she would load down easy as she was a very sharp steamboat. I told him

he might load her down to six feet if he put heavy freight on her, or even more than that, but I didn't think I had ever had her to draw over five feet with all I had ever carried on her. He said the place where he was going to run her there was very little water; at certain times of tide there wasn't more than three feet. Then, said I, you will necessarily be detained, as she wouldn't go in three feet of water. He then said
170 the freight he wanted to carry would be market stuff, their principal freight in the summer time being peaches. I then told him I didn't think he could load her to over five feet of water—5 feet and 2 or 3 inches perhaps. He then asked me about her speed. I told him she could go sixteen miles an hour. They then concluded they would take a trip down—the old man as far as Bergen Point, the son all the way down and back. That was the last I saw of the old man until the second interview. The old man went home and came back again—that is what I meant by the second interview.

10th ques. At this first interview did Mr. Gerson and Henry B. Slaughter say anything to each other about the draft of the Minna? If so, state what that was.

(Objected to as leading by pl'ff's counsel.)

Ans. Mr. Slaughter, I think, asked Mr. Gerson how much water the Minna drew. Mr. Gerson told him he knew nothing about her draft of water only what he had been told by his captain—meaning me I suppose, as he was no steamboatman—and referred him to me; said whatever I said he believed to be true about it—to be correct, or something to that effect. He said she had been hauled out twice on the dry-
171 dock since he had been owner of her. He said he had never seen her out on the dock; he wasn't there either time she was hauled out. He said then that he wouldn't have known how much water she drew, even if he had been there, unless somebody had pointed it out to him. I believe that was all the conversation that took place. I don't recollect of anything else at that time.

11th ques. Was there not something said at that time about Mr. Gerson's letting Mr. Slaughter have the boat for a thousand dollars? If so, describe what was said on each side about that, and the manner in which it was said.

(Objected to as leading.) Vide

Ans. I will tell you. Mr. Gerson said if my captain tells you anything that ain't so about the boat—I forget now how he brought it in—I think he said, I have so much confidence in him—meaning me, you know—if he told you anything but what was so I would give you the boat for nothing, or a thousand dollars, or something of that sort. I have forgotten. I did not pay any attention to that part of the conversation. I thought it was a joke.

(The last sentence objected to as not testimony, being the witness' supposition.)

12th ques. How did Henry B. Slaughter treat that remark of Mr. Gerson's?

172 Ans. Well, they were laughing and talking about it. I think Mr. Slaughter said I don't think the captain would say anything that wasn't so; he don't look like that kind of a man. I then said to Mr. Slaughter it is no interest to me to tell you anything that isn't so about the boat. I said if you purchase this boat it will be a detriment to me instead of a profit. That was about all that was said about it that I recollect of.

13th ques. Did you explain to him how it would be a detriment? If so, give what you said about that.

Ans. I told him that I had got the boat in good order, and got a very good route for her. I had promised the people along the route that they should have a boat, and I had expected to have that boat. I told him that I didn't think I could get a permanent boat to fill the route if he sold the Minna. I said to him then, said I, If she don't answer your purpose down there send her back, I will make her pay on this route. I don't remember now what reply he made.

14th ques. Did you tell him in this connection anything about what the boat was making on her then route? If so, give it.

(Objected to as leading.)

Ans. I told him what money she was then making, what her gross receipts were per day. I don't know that he said anything else.

173 15th ques. What amount, or about what amount, did you mention to him as her gross receipts per day?

Ans. I think I told him about one hundred dollars per day.

16th ques. Did you tell him how much of this was profit?

Ans. Almost $50, I think, I told him.

17th ques. Did Henry B. Slaughter at any time ask your advice as to the price of the boat, or consult with you as to the advantages of buying her? If so, please state what he said and what you said about it.

Ans. Mr. Slaughter asked me if I didn't think she was a dear boat at $40,000. I told him that steamboats *was* once and a half dearer than they ought to be, and, in many cases, they asked more than double what they were actually worth. I then told him, in relation to the Minna, it depended altogether upon how much a man wanted a steamboat. I then asked him what he wanted to do with her, and what he was going to do with her. He said he wanted a steamboat to protect himself against an opposition; that there was a company in Baltimore that had threatened him with an opposition, and he must have a boat to protect himself. He said he wanted a fast boat—something that would beat the boat that was to be put on against him. He then told me what boat they *was* going to put on his route, and asked me if I thought the

174 boat would beat the boat that was going to be put on against him. I then told him I thought she could do it easy. He says, then, I am willing to give $10,000 more than the boat is worth. If I get a boat, says he, I don't think they will undertake to run an opposition against me. I then told him if that was his object, I didn't think he could do any better in New York than to buy the boat. I told him I thought he could get rid of her by losing $10,000; that he could sell her for $30,000 at any time. That was about all that was said on that subject that I recollect of.

18th ques. Do you know whether or not Henry B. Slaughter made any examination of the boat himself, or caused her to be examined by any other person? If so, state what you may recollect about this.

Ans. Mr. Slaughter brought a ship-carpenter with him from Baltimore, likewise his engineer. The ship-carpenter examined the hull of the boat, and bored her with an augur. The ship-carpenter said he was pretty well satisfied that she was sound as any boat of her age. He asked me what I thought of it. I told him I had been out in heavy weather with her, and had her loaded pretty deep. As near as I could judge, I believed her to be sound as any boat of her age. I told

175 him all the worst part of her was visible that was around her top—around her guards and her deck frame. The ship-carpenter shewed me the borings that came out of her timbers. He says they look pretty good. He says they are a little stained. I said that you must expect in a boat of this age. He says I have looked all over New York,

and I don't think Mr. Slaughter can do any better than to take the boat. I said to him he's the best judge of that, and you know what you've got to contend with. It's no business of mine. So far as the engineer was concerned I had very little to do with him—he directed all his conversation to Mr. Goldwin, my engineer.

19th ques. Did Henry B. Slaughter at any time personally inform you that he had become the owner of the boat? If so, how long was this before her departure for Baltimore?

(Objected to as leading.)

Ans. He told me, I think, about five days before she left. Five or six, I can't tell which. I will tell you exactly—six days before she left. He told me he had purchased the boat, and everything was all arranged. Said he, the weather ain't fit for her to go. You continue to run her on the route for me until the weather gets fit for her to go. I did so. I run her two days. He says, I can't stay; I must go home. I depend upon you to take care of the boat, he says. He wished
176 me to get him a pilot to take her down. I got him a pilot, Capt. Sam'l Martin.

20th ques. After Henry B. Slaughter told you that he had purchased the boat, did he, to your knowledge, do anything or cause anything to be done about examining the boat? If so, what was it; where was the boat at the time, and what was said about it, if anything, to Henry B. Slaughter?

Ans. Nothing, to my knowledge.

21st ques. Were you at any time present at Mr. Gerson's office in company with Henry B. Slaughter and Jeremiah Counsellor, while the negotiations for the purchase of the boat were going on?

Ans. I don't recollect of being there at any time. I was not called in question, if I was. I don't hardly think I was there. I might have been.

22nd ques. Do you know what is understood among steamboatmen to be meant by the draft of a steamboat when she is simply described as drawing a certain quantity of water, as for instance, that she draws three and a half feet of water? If so, state what is undersood by it among steamboatmen.

Ans. It is always understood by steamboatmen who go to purchase a boat how much water she draws with a sufficient quantity of water in her boiler, fuel to make a passage on any route she is running on, that is considered her draft of water.

177 23rd ques. Do you recollect anything else proper to be given in evidence, that you have omitted?

Ans. All I recollect of is that Mr. Slaughter measured the boat with a square, he and the ship-carpenter, he and his son and the ship-carpenter. The way they done it, they went into the wheel and took this square and run it down under her bottom, one end up and the other down, to bring it to a level. After they came out they told me she drew four feet and a half. I said to them you can't measure her accurately there. I told them it was impossible for them to measure a boat when she was lying at the dock where the sea was swashing all the time by a ferry. I said to them it only cost about sixty dollars to haul this steamboat on the dock, and about three hours time—then you will know all about it. You won't have to believe anybody; for my part, I would rather you would do it. That is about all that I know of.

24th ques. In whose presence and hearing did they tell you what the draft of the boat was after measuring her, and who do you mean by they, when you say they told you?

Ans. I don't recollect who was present. I think Mr. Hadkins and Mr. Golding. I am not positive. By they, I mean both the Mr.
178 Slaughters, Mr. Robinson, their ship-carpenter from Baltimore, and their engineer.

25th ques. Was this before or after Mr. Henry B. Slaughter told you he had concluded the purchase of the boat?

Ans. I think it was on the same day.

26th ques. Before or after his telling you he had purchased the boat?

Ans. I don't recollect. I can't say.

27th ques. What individuals went into the wheel to do this measuring?

Ans. I think Mr. Robinson and Joel Slaughter, and perhaps the engineer. I don't recollect about that.

28th ques. Where was the position of Henry B. Slaughter at the same time as to the wheel-house?

Ans. I think he stood in the gangway opposite the wheel. I am not positive.

29th ques. After the two days during which you ran the Minna subsequent to her purchase to whom did you give up her possession?

Ans. Joel Slaughter.

30th ques. How is the draft of a boat affected by her running in salt water or in fresh water; does she draw more or less in one than in the other?

Ans. She draws less in salt water than she does in fresh. Salt water is more buoyant.

179 The examination-in-chief of this witness here closed. Commission adjourned to Oct. 3rd, 1865, at 11 a. am.

OCTOBER 10TH, 1865.—Parties present by their counsel. Cross-examination of John Crawford, previously sworn and examined.

1st cross-interrogatory. Who was present at the conversation detailed by you in your answer to the 8th direct interrogatory?

Ans. I think the two Slaughters were there. I don't remember whether Golding and Hadkins were there or not. I don't remember who else was there.

2nd cross. Was Mr. Counsellor present at that conversation?

Ans. I think he was.

3rd cross. Where did that conversation take place?

Ans. I think, on the dock alon'side of the boat.

4th cross. State who were present at the conversation or conversations detailed by you in your answers to the 9th to 13th direct interrogatories inclusive, and when such conversation or conversations took place.

(Question objected to as confused, complicated, and as calculated to confuse the witness, and upon the ground that the counsel ought to separate the conversations and direct the attention of the witness to each separately, and put the matter of this cross-interrogatory
180 as to each conversation separately.

The counsel for H. B. Slaughter states that the objection of counsel for Mr. Gerson was made before the question was read to the witness, and before any objection was made by the witness to the question, and that the witness has not yet made any objection to the question as confessed or otherwise, and has not indicated any difficulty on his part in answering it. And also that the conversation or conversations in question are so inquired of in the last cross-interrogatory, be-

cause from the manner in which the direct testimony is given in the answers to the 9th to 13th direct interrogatories is not apparent whether those answers refer to several distinct conversations or to one continuous conversation. Counsel further objects to the difficulty in answering this question, being suggested by counsel to the witness.

Counsel for Mr. Gerson here states that the cross-interrogatory has not even yet been propounded to the witness, and that his objection is to guard against erroneous testimony growing out of the manner of the question.)

Ans. Mr. Slaughter and his son, the ship-carpenter, Mr. Gerson, and there were several persons there whom I don't recollect. These conversations took place at different places and at different times. One
181 particular time, I recollect, they took dinner with us.

5th cross. Do you recollect whether Mr. Counsellor was present at these conversations?

Ans. Not at all the conversations.

6th cross. At which of them was he present?

Ans. I don't recollect.

7th cross. Please state where the conversations took place detailed by you in your answer to the 9th direct interrogatory?

Ans. I think it was somewhere on the boat. I am not certain where.

8th cross. Is your memory distinct as to the exact conversation, and the persons present and not as to the place where it occurred?

(Objected to on the ground that the cross-interrogatory imputes to the witness an exactness of recollection as to the persons present, whereas he has stated in his answer to the 4th cross-interrogatory that there were several persons there, and he does not recollect who all.)

Ans. I recollect very well that the conversation took place between me and Mr. Slaughter—the same conversation as I gave you.

9th cross. Have you stated that conversation in the exact words used?

Ans. As near as I can recollect.

10th cross. Please state where the conversation detailed in answer to the 10th direct interrogatory took place—if on the boat what
182 part of the boat?

Ans. In the ladies' saloon, on the boat.

11th cross. Was the conversation detailed in your answers to the 11th and 13th direct interrogatories in the same place, or in what other place?

Ans. That was somewhere on the after part of the boat. I am not positive on what spot it was.

12th cross. Referring to your answer to the 8th direct interrogatory where you say, "I then took him out on the deck and showed him how high she was coppered up;" please state how you showed him how high she was coppered up?

Ans. I pointed it out to him on the stern post. I told him how far that copper was from the bottom of her keel—that I had measured it myself with a rule in the presence of a ship-carpenter of whom I borrowed the rule and of Mr. Golding the engineer.

13th cross. Referring to your answer to the 9th direct interrogatory, state what was the kind and quality of the heaviest cargo you ever carried in the Minna?

Ans. Our heaviest cargo was cattle, horses, stoves, and castings, and store goods generally, and oysters in barrels, and baskets. I have
183 had as high as twelve large cattle, and I have had on 3 to 400 baskets of oysters, holding a bushel a piece. At the time I had

the twelve large cattle I had, I suppose, fifty different articles, some not weighing over a pound. When I had on the 3 or 400 bushels of oysters, it was at another time. There was very little else of cargo at that time except passengers—perhaps 100 passengers, perhaps not over fifty.

14th cross. Can you or not then describe any cargo that you referred to in your above remark to H. B. Slaughter, as the most or all you had ever carried on her.

Ans. I cannot.

15th cross. State as near as you can estimate, the average weight of those 12 cattle, each.

Ans. I suppose they would weigh one thousand pounds each—perhaps more.

16th cross. State as near as you know or can estimate the weight of the baskets of oysters each, that you have alluded to.

Ans. I can't tell. I never weighed them. I can only judge. I think from 80 to 100 pounds each.

17th cross. Was "the all you ever carried on her," a lighter or a heavier cargo, than a full cargo of peaches?

Ans. I should think they could load her down with peaches to a greater draft of water. They could load her differently—tier
184 them up around her saloon, between the saloon and the rail, and on the guards; likewise on the upper deck.

OCTOBER 11TH, 1865.

October 11th, 1865. The parties were present by their respective counsel and the cross-examination of John Crawford was continued.

18th cross-ques. Referring to your answer to the 18th direct interrogatory, state when and where this examination and conversation took place, when as to the other conversations you have related, and who was present at the examination and conversation between you and the carpenter.

Ans. I don't think there was any one by when the carpenter and I had this conversation. The conversation took place on the after part of the boat, on the main deck; the boat was at pier No. 26 North River, I think it was the day before the carpenter measured the draft of water, it might have been on the same day; I don't think it was.

19th cross-ques. What was the age of the Minnie at that time? state your means of knowledge as to her age.

Ans. I can't tell you what her exact age was. I know she was over 12 years old. That is all I know about it. Judging from the date on the engine, which was 1853, a new front, I suppose, was put in at that time. It is customary for engine makers to put the year on the
185 front of the engine when they build an engine or put in a new front.

20th cross-ques. Do you know where the Minna was built, and by whom?

Ans. I can't tell where she was built. See was built by Thomas Collyer, deceased, either in Williamsburg, opposite New York, or in New York. He had his yard first at New York; afterwards at Williamsburg; then he moved back to New York again.

21st cross-ques. Was Mr. Henry B. Slaughter on or about the boat after the conversation referred to in your answer to the 19th direct interrogatory while you commanded her?

Ans. I think he was somewhere on the boat or about the dock; I'm not certain which.

22nd cross-ques. State your reccollection as to that.

Ans. I can't say as to that. I presume he was around there. I think he was.

23rd cross-ques. How long have you known Julius Gerson?

Ans. About two years.

24th cross-ques. How long have you been in his employment? and when did you leave his employment, if you have left it?

Ans. I was in his employment from the middle of August, 1863, to the 16th of April, 1864. I then left his employment, and have not been in it since.

186 25th cross-ques. Referring to your answer to the 17th direct interrogatory, do I understand you that, in your opinion, the boat was only worth thirty thousand dollars at the time of the sale in question?

Ans. I say all steamboats are not worth more than half what they cost. My opinion is according to the answer I have given, that the boat wan't worth more than twenty thousand dollars.

26th cross-ques. What is the least depth of water you use on your route from Perth Amboy to New York?

Ans. At Elizabethport, at the corner stake, at extreme low water, I have seen it almost run bare. Ordinarily there is five feet of water at that place at low tide.

27th cross-ques. Speaking of the corner stake, do you refer to a point in the said route of said Minna used by her?

Ans. Yes.

28th cross-ques. Is that the shoalest part of that route?

Ans. Yes, sir.

29th cross-ques. Did the Minna go over that part of the route, or attempt it at extreme low water?

Ans. I was never in her at such a time as that.

187 30th cross-ques. Did you ever know or hear of a steamboat running regularly on a route that carried only her fuel and water for her boilers?

Ans. I shouldn't suppose anybody would run a steamboat on a route and not carry anybody, any freight, or passengers. I never heard of such a thing.

31st cross-ques. Would that be likely to be a profitable business to the boat or her owners?

Ans. I should think not.

32nd cross-ques. If a person in view of purchasing a steamboat, after explaining the route on which he wanted to run her, and stating that he intended to do a large business in carrying peaches in the peach season, and that had to use landings where there were bars with only three and a half feet of water on them, asked you how much water a certain boat would draw and you answered three and a half feet, would you expect him to understand that she drew that depth of water with only her complement of coal and water on board?

(Objected to, because the question assumes a state of facts neither in proof nor in the case.)

Ans. I should certainly expect that he would understand that she drew that depth of water with her usual complement of coal and water for a trip.

188 33rd cross-ques. When, with reference to the conversations stated by you in your answers to the 8th and 9th direct interrogatories, did the measurement of her draft by the ship-carpenter take place?

Ans. After. The conversations took place at the first interview, when the old man was on here the first time. The measurement took place on or about the time of the purchase of the boat.

34th cross-ques. In which wheel-house did they measure?

Ans. I saw them measure in the starboard wheel.

35th cross-ques. Whom do you mean by them?

Ans. I mean Mr. Joel Slaughter, the ship-carpenter, and their engineer.

36th cross-ques. Do you say that these three were all employed in measuring in the starboard wheel?

Ans. I can't say as to all of them being employed. I suppose it took as many as two to hold the square they had.

37th cross-ques. Are you testifying what you know and remember, or only what you suppose?

Ans. Testifying to what I saw.

38th cross-ques. Will then please answer the 36th cross-question?

189 Ans. I saw the ship-carpenter and the engineer both with this square. Then I came away from the wheel, and didn't see them until they came out on deck with the square.

39th cross-ques. Did you not say, in answer to the 35th cross-question, that you saw Joel Slaughter in the starboard wheel with the carpenter and engineer?

Ans. I did.

40th cross-ques. Was that correct?

Ans. I think it was, as near as my memory serves me.

41st cross-ques. Describe the square used by them.

Ans. It was a square made out of two pieces of board put together at right angles, with another piece of board for a brace across the angle. I never saw a boat measured in that way before.

42nd cross-ques. Describe the application of this square in measuring the draft of a boat.

Ans. The square is shoved down under the bottom of the boat, then the part out of water is brought up against the hull of the boat. I ought to have said it was shoved down until it was brought to a perpendicular, rubbing the bottom of the boat as it went under. Then it is

190 brought out of the water, and as far as the standing part is wet by the water is the draft of the boat, if they get it correct. I will state that it can't be done correctly.

The examination of this witness was further adjourned to October 13th, at 11 o'clock a. m.

OCTOBER 13TH, 1865. The parties were present by their counsel, and the cross-examination of Capt. John Crawford was continued.

43rd cross-ques. Then do I understand you that there were two pieces of board, one a standing part and the other at right angles to it, and a brace from one to the other, in this form, which constituted the square with which the measurement was made? If the form of said square was otherwise, please state how otherwise.

Ans. The form of the square was just as you have it on the paper, to the best of my knowledge and recollection. I mean just as the commissioners have it. I paid but little attention to the square or the measurement of the boat.

191 44th cross-ques. Did you not pay sufficient attention to the square to have seen any other part, if any, and any other form of it, if any?

(Objected to as leading, and as hypothetical, and as warping the witness from his statement in answer to the previous question that he paid but little attention to the square.)

Ans. I did not.

45th cross-ques. At what point of time as to the process of measurement did you see the square?

Ans. I think it was after they had measured the boat. I am not positive.

46th cross-ques. In what position and where did you then see it?

Ans. I can't say as to the position. I think it was in the starboard gangway opposite the wheel door.

47th cross-ques. Was it held in any person's hands or resting on the deck.

Ans. I think the ship-carpenter had hold of it in some shape. I paid so little attention that I hardly know anything about it.

48th cross-ques. Did you pay as little attention to the whole business of the measurement and to the conversations connected with it as you have just stated you did to the matter of the square?

Ans. I did.

49th cross-ques. Did you just now state as a reason for your
192 paying so little attention that you were going to and fro attending your business as master of the boat or words to that effect?

(Objected to because the question as put seems to imply that the witness made the remark imputed as part of his testimony whereas, although he did make the remark, he made it incidentally, and it has not been taken down as testimony.)

Ans. I did. That was one reason, that I had my business of the boat to attend to. Another was, that the measurement of the boat or any other part of the sale of the boat was no business of mine.

50th cross-ques. Did you call Mr. Golding from the engine-room to come and attend to the measurement or any part of it?

Ans. I told Mr. Golding that they were going to measure the boat, I believe. He had better open the doors of the wheel-house, and if they wanted any assistance to assist them.

51st cross-ques. Was the deck clear between the wheel-houses so that you could see across the deck from one to the other?

Ans. No, sir; you can't see across there.

52nd cross-ques. Was the port-wheel door open at the time you have spoken of namely, when the measurement took place?

Ans. I don't remember anything about it.

193 53rd cross-ques. Was any measurement of the draft made in the port wheel, or was the square used in that wheel?

Ans. Not to my knowledge.

54th cross-ques. Then the whole process of measurement, so far as you know anything of it, was done, and completed in the starboard wheel was it?

Ans. All that I saw in relation to it was done in the starboard wheel.

55th cross-ques. And on the completion of that measurement in the starboard wheel the ship-carpenter made the announcement of the draft as he found it, and you replied, as you have stated, that he could not measure accurately in that way. Is that so?

(Objected to, because the question assumes that the witness stated that the announcement was made simultaneously with the completion of the measurement, whereas what the witness said was, that after they came out they told him the draft, without saying how long after.

The counsel for H. B. Slaughter insists that the question assumes

nothing, but simply inquires of the witness what the facts were, and the objection and specific statement of the grounds of it were
194 unnecessary and unwarranted. If the announcement was much or little time after the completion of the measurement, the witness, a very intelligent gentleman and a ship-master of long experience, could readily say so without any suggestion from the counsel who called him.

The counsel for Julius Gerson simply refers to the language of the witness in answer to the 23rd direct question.)

Ans. Yes, that is so.

56th cross-ques. Was there any other square or instrument of any kind or of any form used by the said ship-carpenter on the day you have referred to, or on any other day to measure the draft of water of the steamboat Minna at her dock in New York or at any other place, to your knowledge?

Ans. Not to my knowledge.

57th cross-ques. Will you please state your special reasons for saying to the carpenter that he could not measure accurately in that way?

Ans. I had no particular reason, otherwise than that I didn't think he could do it accurately.

58th cross-ques. Were you on board when the Slaughter party came on board on the day of the measurement?

195 Ans. I think I was somewhere about the boat.

59th cross-ques. About how long did they remain on board on that day?

Ans. Oh! I can't say; they must have been there a couple of hours.

60th cross-ques. Were you on board all the time they were there?

Ans. I must have been there almost all the time. I was seldom away from the boat.

61st cross-ques. Please tax your memory and answer the last question positively, if you can?

Ans. I can't answer it positively.

62nd cross-ques. Who else was with you on the dock when you showed H. B. Slaughter the copper?

Ans. I think his son Joel and Mr. Counsellor. I am not positive as to Mr. Counsellor being there. I think he was.

The cross-examination was here closed, and the counsel for Julius Gerson examined the witness on the redirect examination.

1st redirect ques. Referring to your estimate if the value of steamboats, as compared with the price asked for them and your computation of the value of the Minna as $20,000, according to that basis, suppose you knew at the time of the negotiation for her sale she had new repairs, machinery, and boiler just put in at a first cost of from (say
196 $24,000 to $28,000,) by what process of calculation would you appraise her value at $20,000?

(Objected to by plaintiff's counsel as incompetent on a redirect examination, hypothetical and otherwise.)

Ans. My estimate of steamboats, as I stated before, that they brought double what they were worth. The steamer Minna was no dearer at $40,000 that the majority of steamboats that were sold about and around New York, and that these repairs on a steamboat were nearly three times as much as they were five years ago.

2nd redirect ques. Then your idea would seem to be that steamboats cost more than their value either by reason of casual high prices or extravagance of outlay upon them?

(Objected to by plaintiff's counsel as incompetent even on a direct examination, and as leading, not called for by any new matter brought out on his cross-examination, and otherwise.

Add to the question: if not then, explain your idea more fully than you have done.

Plaintiff's counsel objects that the addition in no way obviates the objection made, and the objection is repeated.)

Ans. My idea is that on account of the call for steamboats has
197 got them up to a fictitious value.

The redirect examination of the witness John Crawford was here adjourned.

JOHN CRAWFORD.

PETER STARR,
J. W. HOWE,
Commissioners.

The examination is further adjourned to Oct. 17th, at 3 o'clock p. m.

The examination is further adjourned to October 19th, at 3 o'clock p. m.

Adjourned to Tuesday at 11 o'clock a. m., October 3rd, 1865.

Further adjourned to October 6th, 1865, at 2 o'clock p. m.

OCTOBER 6TH, 1865.—Counsel for both parties present. JOHN H. GOLDING, a witness for the defendant, Julius Gerson, being duly sworn testified as follows:

1st ques. What is your name, age, residence, occupation, and how long have you been engaged in it? if an engineer, what sort of an engineer, by what board or authority licensed, and how long ago;
198 where and in what kind of vessels have you pursued your calling?

Ans. My name is John H. Golding. I am thirty-one years old. I reside at Perth Amboy, New Jersey. I am an engineer. I have been engaged in that business the last twelve years. I am a theoretical and practical engineer. I am licensed by the board of local inspectors of the United States Government, in the city of New York. I have held a license from that board since June 10th, 1854. I have been an engineer in steamships and river boats.

2nd ques. If you at any time were engineer of the steamboat Minna, formerly George Law, state during what time you were such engineer, where was the then route of the boat, and who were then her captain and purser?

Ans. I was engineer of the Minna during the fall and winter of 1863 and 1864, and the spring of 1864 up to the time she was sold. The route of the boat was between New York and Perth Amboy. John Crawford was her captain. John H. Hadkins was her purser.

3rd ques. During the time you were engineer of that boat, did you see her draft of water measured on the dry dock?

Ans. I did.

199 4th ques. Describe her draft as measured?

Ans. She measured on the dock. She measured three and a half feet from her keel to her water line.

From what part of her keel?

Ans. From the lower part—from the bottom part.

6th ques. I mean from what part of her keel on a line from her stem to her stern, was the measurement taken?

Ans. From the after part near her stern part.

7th ques. During the time you were engineer of the Minna did you ever see her draft measurement taken while she was afloat; if so, at what place?

Ans. I did; at pier 26 North River.

8th ques. Upon this occasion did any person call upon you to be present at such measurement; if so, what person and what were you doing when so called upon?

Ans. Yes, sir; I called upon by Capt. Crawford. At the time I was called upon I was engaged in the engine-room of the Minna.

9th ques. When so called upon what did you do; where did you go, and what did you see?

Ans. I left the engine-room and went to the door leading to the wheel. I saw them with an apparatus constructed to take the draft of water of the boat as she lay afloat, which consisted of planking fastened together, at an angle of 45 degrees, which was in the possession of
200 a carpenter named George Anderson, a gentleman coming from Baltimore, employed by H. B. Slaughter. He said he had measured boats as to their draft of water, previous to the Minna, in the same manner. He said that he made the draft of water more than three and a half feet. I asked him what draft he made by this measurement. He answered me that he made it between four and four and a half feet. I asked him if he thought he was correct in his measurement. He said he wasn't positive, but he thought that was as near as he could come at it. He said he might possibly be mistaken, on account of a little swell arising from ferry boats coming in at the foot of Barclay street. At that time the water was smooth and perfectly calm in the slip, with the exception of a little rise and fall of the sea, not to exceed four or five inches. I then asked him if he couldn't average the difference between the level of the water in the slip and the little sea or swell arising. He said he could. I then asked him what then was the draft of water of the boat. He answered me in these words, that the boat was drawing near four feet and a half. That ended the conversation between the carpenter and myself in regard to the draft of water.

201 10th ques. How many upright limbs did this apparatus for taking the draft have?

Ans. When I was called to the port wheel I saw one upright limb on that side—the port side of the vessel. Then my attention was called to the starboard wheel, and then I saw the same with a plumb ball to get the perpendicular of the upright arm.

11th ques. Were both wheel-houses open?

Ans. Yes, sir.

12th ques. Who officiated in the port wheel in taking the measurement?

Ans. Mr. Anderson.

13th ques. Assisted by anybody?

Ans. By a person in the starboard wheel, whose name I didn't know.

14th ques. About how long before the Minna's departure from her then route was this measurement taken?

Ans. The measurement was taken on a Tuesday. She hauled off the route on a Thursday, on her arrival in New York, about ten o'clock.

15th ques. I meant before her departure for Baltimore?

Ans. Five days.

16th ques. What persons do you remember to have present at this measurement?

202 Ans. Five, including myself, H. B. Slaughter, his son, Mr.

Anderson, Mr. Brannan, the engineer that came on to take the boat on, Capt. Crawford, a stranger from Baltimore, who was with the party. I forget his name. There were seven in all, instead of five.

17th ques. Where was H. B. Slaughter's position while this measurement was going on?

Ans. On the port side—where the carpenter was.

18th ques. In relation to the wheel-house door, where was H. B Slaughter's position?

Ans. His position was near the door—near enough to look in and hear the report from the carpenter.

19th ques. Where was the carpenter when you and he had the conversation between you that you have related, and where were you?

Ans. We were both standing on the wharf.

20th ques. Did you hear any announcement of the draft on board the boat at the time of the measurement?

Ans. I did not.

21st ques. Were you present near the port wheel-house all the time the measurement was going on, until it was finished, and until the carpenter came out of the port wheel-house?

Ans. I was not.

22nd ques. Were you present near the port wheel-house at
203 the moment when the measurement was completed?

Ans. I was.

23rd ques. How do you know that the measurement was completed while you were near the port wheel-house?

Ans. Because the carpenter said he was through and came out of the wheel, and from there to the wharf. That was the time we had the conversation I have alluded to.

24th ques. Were you on the boat or on the wharf when the carpenter came out of the wheel-house?

Ans. I was on the boat.

25th ques. Where were you as to the wheel-house when the carpenter reported that he was through the measurement?

Ans. Standing by the door, looking at him.

26th ques. Did you immediately, upon his so reporting, do anything; if so, what?

Ans. I left the wheel-house door, where I was standing, and went on the wharf to the hydrant.

27th ques. What did you do at the hydrant?

Ans. I shut the water off.

28th ques. What did you then next do?

Ans. I next then had the conversation with Anderson in regard to the draft of water of the boat.

29th ques. About how many minutes were there between your
204 leaving the door of the wheel-house and the commencement of this conversation with Anderson?

Ans. Five minutes.

30th ques. While the measurement was going on, how were Capt. Crawford and H. B. Slaughter standing as to each other?

Ans. Capt. Crawford was on the forward deck when I was called. I do not remember of seeing him any closer to Mr. H. B. Slaughter than that, to my knowledge.

31st ques. Upon the carpenter's leaving the wheel-house, did you observe any movement of any persons, including the carpenter, in any direction; if so, describe it?

Ans. I did not.

32nd ques. When you and the carpenter were having the conversation on the wharf, which you have spoken of, did you see any persons on the forward deck of the Minna; if so, who did you see there?

Ans. I saw persons consisting of the deck hands and Mr. Hadkins, taking account of freight.

33rd ques. Do you know where Capt. Crawford was while you and the carpenter were having the conversation?

Ans. He was present.

34th ques. Where was Henry B. Slaughter at that time?

205 Ans. He was also present.

35th ques. Do you mean that they were both present with you and the carpenter on the wharf, while the carpenter and you were holding the conversation about the draft that you have testified to?

Ans. I do, sir.

36th ques. Please to state what means, if any, the engineer Branman took to know about the boat? What did he as to finding out about her, and what he stated about her to you, if anything, as the result thereof?

(Objected to by plaintiff's counsel. Question withdrawn.)

37th ques. Do you know whether or not any person was upon the boat, as an engineer, to examine her on behalf of H. B. Slaughter, with a view of his buying her? if so, state who that person was, and your ground for supposing that he was acting on behalf of H. B. Slaughter.

Ans. I do. An engineer by the name of James Brannan, residing at 17 Hill st., Baltimore. He told me that he was in the employ of H. B. Slaughter, and came to New York to examine the boiler and engine, and if purchased to take her out to Baltimore as engineer.

38th ques. Did he first make his appearance on the Minna in

206 company with anybody; if so, in whose company?

Ans. He did, in company with H. B. Slaughter's son, who gave me an introduction to him.

39th ques. In what terms did H. B. Slaughter's son introduce him?

Ans. Introduced him as James Brannan, an engineer from Baltimore.

40th ques. Did he refer to him as going to do anything about the purchase or negotiations therefor of the boat?

(Objected to as leading. Question withdrawn.)

41st ques. Did H. B. Slaughter's son make any remarks upon introducing Brannan to you; if so, what were they?

(Objected to—that the previous question, although withdrawn, has suggested the answer to this question.)

Ans. He did. He wished me to point out to him any defects in regard to the boiler and engine. I told him with pleasure that I would.

42nd ques. Did you point out to him any such defects; if so, what?

Ans. I did; I told him that there was a bad leak or crack in the bed-plate, and also that one feed pump wanted careful attention.

207 With proper attention it would work all right. Said pump was the starboard feed pump for pumping the water into the boiler. That is all.

43rd ques. How were the boiler and engine as to any other defects, except those you pointed out?

Ans. They were perfect.

44th ques. Did you, while the negotiations for the purchase of the boat were going on, see anything more than you have already related pass between Henry B. Slaughter and Brannan, or hear Henry B. Slaughter say anything to Brannan, or about him; if so, what?

Ans. I did. He asked Mr. Brannan what he thought of the boat, in

regard to the engine and boiler, as to their condition. Mr. Brannan said that as far as his judgment went that he was satisfied that the machinery—that is, the engine and boiler—were good.

45th ques. Before making this statement what means, if any, had Brannan taken to find out about the engine and boiler?

Ans. Making two trips from New York to Perth Amboy in the boat to witness the working of the engine and boiler in regard to the consumption of fuel, and to see that the boiler generated steam sufficiently for the engine.

46th ques. During these trips whereabouts in the boat did Brannan keep himself, and how did he employ himself?

208 Ans. He kept himself on the upper deck, around the beam of the engine; below deck, around the condenser and air-pump of the engine; and in the fire-room; opened the furnace doors to see how she was burning coal, carrying steam from 35 to 40 pounds pressure, with the engine at full speed.

47th ques. Did he give any directions, or express any wishes to you about the running of the boat; if so, what?

Ans. He did not.

48th ques. Who else, if anybody, of the Slaughter party went these trips in the boat?

Ans. H. B. Slaughter's son, Mr. Anderson, the carpenter, a gentleman that came on from Baltimore with them to go on the boat to Baltimore as an invited guest.

49th ques. Did Mr. H. B. Slaughter's son say anything to you about the boat as the result of these trips; if so, what passed between you about it?

Ans. He said to me that he was satisfied with the boat, with the exception of the price—he thought it was more money than the boat was worth. He said that she was an indispensable article; that they wanted her to put upon the route to keep an opposition from coming against them, as they were building a new boat, but would not have been

209 completed in time for the spring trade; but otherwise she answered their purpose, being *as* a fast boat and an economical one in the way of fuel. I gave him no encouragement to buy the boat, for the reason that if they bought the boat I would be thrown out of a situation.

Examination adjourned to October 10th, at 11 o'clock, a. m.

OCTOBER 10th, 1865.—Parties present by their counsel. Examination-in-chief of John H. Golding, previously sworn and examined here closed, and the witness was cross-examined by plaintiff's counsel.

1st cross-ques. Referring to your answer to the 4th direct interrogatory, please state what is meant by the water-line.

Ans. The water-line is that portion of the vessel at the surface of the water.

2nd cross-ques. Does the position of the water-line vary as the vessel is light or loaded?

Ans. It does.

3rd cross-ques. Then please state where the water-line of the Minna was when she was measured, as you have stated in answer to the 4th direct interrogatory.

210 Ans. It was three and a half feet from the lower portion of the keel, as measured on the dock.

4th cross-ques. If the water-line of a vessel is that portion of a vessel

at the surface of the water how could that line be found when she is out of the water?

Ans. Because when she is in the water that portion in the water becomes dirty by the action of the water upon the wood.

5th cross-ques. Then do I understand you that the measurement on the dock was taken from the bottom of the keel to the line of dirty wood caused by being under water?

Ans. Yes, sir.

6th cross-ques. That line indicated the depth to which the vessel had been submerged in her business, did it not?

Ans. It did.

7th cross ques. How long were you employed on board the Minna?

Ans. Three months and a half.

8th cross-ques. Where and how was she employed during that time—I mean on what route—and what was the nature of her business?

Ans. She was employed on a route between New York and Perth Amboy, New Jersey, in carrying passengers and freight.

9th cross ques. What kind of freight, and in what quantities usually?

211 Ans. Merchandise of all descriptions as well as oysters—the quantity—I cannot tell the number of tons.

10th cross-ques. Did she usually carry full or nearly full cargoes on that route?

Ans. I have seen her carry freight on her main deck that you could not find a place to stand. She did usually carry full or nearly full cargoes on that route

11th cross-ques. If a vessel draws three and a half feet aft and four feet amidships, could three and a half feet be truly said to be her draft of water?

Ans. It could not.

12th cross-ques. Where was Captain Crawford while the measurement was being taken which you have described in your answer to the 9th direct interrogatory?

Ans. He was standing in the port gangway near the port wheel.

13th cross-ques. Did he remain there during all the time the measurement was being taken?

Ans. He did not.

14th cross ques. At what point of time did he leave, and where did he go; and if he returned during the measurement, at point of time did he return?

Ans. As to the point of time I can't answer. He left and went
212 on the forward deck; he returned when Mr. Anderson said that he was through.

15th cross-ques. To whom did Mr. Anderson say that?

Ans. To those who were present.

16th cross-ques. Who were immediately present?

Ans. H. B. Slaughter, young man Slaughter, Capt. Crawford, a gentleman—name unknown—and myself.

17th cross-ques. Who, if any one, replied to Mr. Anderson's remark?

Ans. I do not know, sir, as I left immediately and went on the dock.

18th cross-ques. Did you walk away or run when you left for the dock?

Ans. I walked away at a quick pace to get to the hydrant to shut the water off.

19th cross-ques. Could you not have heard any reply if any had been made by those present, to Mr. Anderson's remark?

Ans. I could not.

20th cross-ques. Why not?

Ans. My mind was on the water that was running, and I did not stop to listen, and I was in a hurry to shut off the water.

21st cross-ques. Was Mr. Hadkins present while the measurement was being taken at any part of the time; and if so, at which part?

213 Ans. He was, at the commencement of the measurement.

22nd cross-ques. How long did he remain present?

Ans. Only a few moments, as he was called away to attend to taking account of some freight.

23rd cross-ques. Did he leave before the measurement was completed?

Ans. I think he did.

24th cross-ques. Where did he go?

Ans. He went out forward; the last I saw of him at the gangway?

25th cross-ques. About how far in feet was that from the wheel-house door?

Ans. Thirty feet.

26th cross-ques. Was he there engaged in taking in or in discharging freight?

Ans. In taking in freight.

27th cross-ques. About what time of day was this?

Ans. Between the hours of 11 and 12.

28th cross-ques. How long had the Minna then been taking in freight?

Ans. As near as I can judge from eleven o'clock.

29th cross-ques. Was there any of her inward freight still on board?

Ans. Yes, sir.

30th cross-ques. About how much.

Ans. I think the gangways contained some baskets of oysters;

214 I suppose somewhere about 25 baskets of oysters; I don't remember any other.

31st cross-ques. Can you say about how much outward freight she had then taken on board, and what it consisted of?

Ans. I cannot, sir.

32nd cross-ques. On taking the square out of the water how was the draft ascertained?

Ans. By measuring the upright pieces.

33rd cross-ques. By measuring the whole length of the pieces, or some particular part of them?

Ans. A particular part, where it was submerged in the water.

34th cross-ques. Then you mean that they measured the wet part, do you not?

Ans. I do.

35th cross-ques. State who were present at the wheel-house door when the carpenter came out on deck after the measurement.

Ans. I cannot state, because I did not see the carpenter come out, as I left on his announcement that he was through.

36th cross-ques. Who all were present at your conversation with the carpenter on the dock?

Ans. H. B. Slaughter, the young man Slaughter, Capt. Crawford, Mr. Hadkins, and a gentleman, name unknown.

37th cross-ques. Did you ever hear the name of that gentleman?

215 Ans. I did.

38th cross-ques. Was it Mr. Counsellor?

Ans. It was not.

39th cross-ques. Was it the gentleman you have before referred to as coming from Baltimore as an invited guest?

Ans. It was.

40th cross-ques. Give us the general description of the man.

Ans. A man of medium height, rather slim, chesnut-colored hair, and wore a goatee; about 25 or 28 years old.

41st cross-ques. State the conversation between you and the carpenter on the dock.

Ans. I asked him what he made the draft of the boat; he said over four feet, as near as he could come to it. He said he might possibly be mistaken; but that he had measured vessels in that way before, and was generally correct in his measurement.

42nd cross-ques. Was that all that was said?

Ans. It was.

43rd cross-ques. When and where did the conversation occur, related by in your answer to the 44th direct interrogatory?

Ans. On the boat, at the engine-room, on the passage from New York to Perth Amboy, immediately after the measurement by the carpenter, and on that day.

216 44th cross-ques. When and where did the conversation occur stated in your answer to the 49th direct interrogatory?

Ans. That occurred between young Mr. Slaughter and myself on the passage up the next morning, at the engine-room.

45th cross-ques. Who else, if any one, was present?

Ans. No one.

46th cross-ques. How long have you been in Mr. Gerson's employ?

Ans. Three months and a half.

47th cross-ques. How are you employed now?

Ans. Not employed at all.

48th cross-ques. How long have you been unemployed?

Ans. Since the first of September, 1865.

49th cross-ques. How were you employed prior to that time, and for how long?

Ans. I was employed as engineer on the steamer Rescue, belonging to the Columbian Coast Wrecking Company, 20 Old slip, New York, from the 1st of July, 1865. Prior to that I was employed in running an engine on the New Jersey Railroad and Transportation Company, from October 19th, 1864, to the first January, 1865. Prior to that I was engineer of the steamboat D. R. Martin, running from New York to Keyport, under Capt. Crawford, from the 15th of June to the 15th September, 1864, which was the first steamboat that I had been engaged

217 on since the Minna was sold.

50th cross-ques. Who requested you to give your testimony in this cause?

Ans. Capt. Crawford, through Mr. Gerson.

51st cross-ques. What did Mr. Gerson say to you on that occasion?

Ans. Mr. Gerson did not say anything to me. Capt. Crawford told me that Mr. Gerson had been to the boat enquiring for me. Captain Crawford told him that he would see me and would tell me that he, Mr. Gerson, wished to see me. I called on Mr. Gerson, 353 Broadway. He told me they were taking testimony in the case of the Minna; he wished me to give in my testimony, and to tell the truth, the whole truth, and nothing but the truth. He told me if I called at Mr. Huntington's office, 200 Broadway, that Mr. Huntington would tell me whereabouts the testimony was to be taken. I called at Mr. Huntington's, but did not find him in. He found me at Pier 26, on board steamer W'm Harrison. I then went with Mr. Huntington to his office, 200 Broadway, from there to No. 10 Wall street.

52nd cross-ques. Have you related all that passed between you and Mr. Gerson?

Ans. I have.

53rd cross-ques. He did not administer an oath to you on that
218 occasion, did he, to tell the truth, the whole truth, and nothing but the truth?

Ans. He did not.

The cross-examination of the witness was here closed.

Redirect examination:

1st redirect ques. Describe his manner and way of saying about telling the truth, and how did such a remark come up?

Ans. He told me in a very mild and easy manner. He told me that my testimony was going to be taken, and he wished me to tell nothing but what I knew in regard to the sale of the boat.

2nd redirect ques. Was it in that connection he made the remark you have repeated, to tell the truth, the whole truth, and nothing but the truth?

Ans. It was.

3rd redirect ques. During the time you were engineer on the Minna, during how many hours of the day was she running, what time of the day, and during how many hours of the day was she at rest, and where?

Ans. She was running 5 hours out of the 24, averaging 2½ hours in the morning, and 2½ in the afternoon. She was at rest in New
219 York from 10 o'clock, a. m. till 2 30 p. m. The balance of the day and night she was at Perth Amboy wharf.

4th redirect ques. Would her water-line that you have spoken of be defined by the water mostly when she was at rest or in motion?

Ans. At rest.

5th redirect ques. You said that water-line was defined on her wood. Did you mean by that her hull?

Ans. I did.

6th redirect ques. Then, if her hull was coppered, you meant on the copper of her hull, didn't you?

(Objected to by plaintiff's counsel as leading and otherwise.)

Ans. Yes, sir.

7th redirect ques. Was her hull coppered; if so, how high up from her stern?

Ans. Up to the edge of the water-line.

8th redirect ques. Any higher?

(Objected to by plaintiff's counsel.)

Ans. It might possibly be from two to three inches.

9th redirect ques. Do you know whether or not the carpenter made any notch or mark in the upright limbs of the measuring apparatus to indicate the water-line at the time of the measurement?

Ans. I do not.

10th redirect ques. At what time was it that you had the con-
220 versation with the carpenter, Anderson, mentioned in that part of your answer to 9th direct interrogatory, commencing at the end of the sentence concluding with the words "as near as he could come at it," and continuing to the end of that answer; and at what place did you have that conversation, and who were present and within hearing of it?

(Objected to.)

Ans. About 5 minutes after he came out of the wheel, as near as I can judge from the time I left. It was on the wharf; those present

were, Mr. H. B. Slaughter, young man Slaughter, Capt. Crawford, John H. Hadkins, and a gentleman, name unknown—the invited guest from Baltimore.

The examination of the witness, John H. Golding, was here closed.

JOHN H. GOLDING.

The examination was here adjourned to October 11th, 1865, at 11 o'clock a. m.

PETER STARR,
J. W. HOWE,
Commissioners.

OCTOBER 3RD, 1865.—Parties present by their respective counsel.

JOHN H. HADKINS, a witness called and produced on the part of the defendant, Julius Gerson, being duly sworn, testified:

221 1st ques. What is your name, age, and what was your business in the spring of 1864; and if connected with any steamboat, what steamboat was it?

Ans. My name is John H. Hadkins; my age is 32; my business in the spring of 1864 was purser of the steamboat Minna, formerly the George Law.

2nd ques. Were you acquainted with any parties who examined that steamboat at the time spoken of; if so, what parties?

Ans. There was no particular acquaintance, except that I was then introduced to them. I never saw them before that. Capt. Slaughter and his father, and a man said to be their carpenter, and, I think, two or three others. This carpenter was a ship-carpenter.

3rd ques. What examination of the boat was made by any of these parties, and which of them, to your personal knowledge?

Ans. Well, Capt. Slaughter, his father, and the ship-carpenter examined the boat above and below; examined her joiner-work, and everything that could be seen; and then they measured the draft of water by means of a square. Capt. Slaughter held one end of this square, and measured in the wheel-house, amidships; and the carpenter plumbed this stick—this square—so as to have it perpendicular, and re-

222 ported to Mr. Slaughter, the father of the captain, that she *drawed* over four feet of water.

4th ques. How long was this before the Minna left her then route for Baltimore?

Ans. This was a day or two before she was sold. They kept her there some days after they bought her before they started her for Baltimore.

(The answer to this question is objected to by the counsel for the defendant, Mr. Gerson, as not responsive, and the question is repeated.)

Ans. I can't tell exactly.

5th ques. Come as near to it as you can.

Ans. Six days.

6th ques. Before the time of this measurement had there been any conversation about the boat between you and Henry B. Slaughter?

Ans. Yes, sir.

7th ques. Please to relate it.

Ans. I asked Henry B. Slaughter, or Captain Slaughter——

(The counsel for the defendant, Julius Gerson, here interrupts the witness and states that Henry B. Slaughter is the father, and Captain Slaughter the son, and asks the witness if he is going on to relate a conversation with the father. The witness replied that the conversation

that he was going to detail was between him and the son, and
223 that he did not know the Christian names of the Slaughters. He only knew them as father and son. The question is then withdrawn by the counsel for the defendant, Mr. Gerson.

The counsel for the plaintiff objected at the moment of the interruption by counsel for the defendant, but counsel for the defendant insisted on his interruption, and a long conversation ensued between him and the witness, only a small part of which is above stated by him. Counsel for plaintiff insisted that the witness should answer the question put to him from his own knowledge, and without seeking or obtaining information from the counsel which he was going on to do when interrupted.

The counsel for the defendant here asks that any portion of the conversation referred to deemed necessary be stated if desirable, and controverts that it was a long conversation, and states that it was in the presence and *b*earing of all parties.)

8th ques. Please relate any conversation that took place between you and the father of Captain Slaughter before the time of this measurement?

Ans. I asked Mr. Slaughter if he was going to turn us out of doors. We were sitting in the after cabin at dinner when this conversation took place. He said he hoped not so bad as that; he liked the
224 boat very well; couldn't find anything about New York that suited him any better. He then looked at the kitchen and the stove; made the remark that the stove wasn't large enough for them; they would have to get a new one, and the kitchen they would move on the upper deck, and that would give them more room—room to put berths in. That is all I can think of now.

The examination-in-chief of the witness was here closed.

Cross-examined by counsel for plaintiff, Henry B. Slaughter:

1st cross-ques. Was Capt. Crawford in command of the Minna at the time of the examination you have related in answer to the 3rd direct question?

Ans. He was.

2nd cross-ques. Was he present at that examination?

Ans. Not when they measured her. He came there afterwards.

3rd cross-ques. How long afterward?

Ans. I don't know exactly. Sometime in the neighborhood of half an hour; it wasn't more that that; I don't remember exactly.

4th cross-ques. Did you hear any conversation between Capt.
225 Crawford, when he came there, and the persons who measured the draft of water? if so, state it.

Ans. Not to my recollection.

5th cross-ques. Are you sure that Capt. Crawford was not present at the time of the measurement?

Ans. Not at the time I was there. It took them some time. They were rigging this square they had; the carpenter manufactured it.

6th cross-ques. Where was the Minna lying at the time of the measurement?

Ans. At her dock, pier No. 26 North River, between Barclay and Robinson street.

7th cross-ques. What portion of the time occupied by the measurement and the preparations for it were you present?

Ans. I was there just as they got through; didn't see the commencement at all.

8th cross-ques. Who announced the draft?

Ans. The ship-carpenter.

9th cross-ques. After announcing the draft, what did the captain next do or say, and where did he go?

Ans. He took the stick apart. They stood there talking together, and I walked away.

10th cross-ques. Whom do you mean by they?

Ans. I mean Capt. Slaughter, his father, the ship-carpenter, and one or two others—one man whose name I don't recollect—the other, I think, was the engineer; I won't be positive.

226 11th cross-ques. Was the name you don't recollect Counsellor?

Ans. Some such a name; I think that's the name.

12th cross-ques. Did you hear any further conversation on board that day about her draft of water? if so, state it.

Ans. None that day, to my recollection.

13th cross-ques. How was the water at that time in the slip—smooth or rough?

Ans. Smooth.

14th cross-ques. Was Mr. Gerson on board at that time?

Ans. At the time of the measurement? No, sir.

The cross-examination of the witness was here closed.

Redirect examination by defendant's counsel:

1st redirect ques. Where did you go when you walked away as stated in your answer to cross-question 9th?

Ans. I went on the dock to attend to my business.

2nd redirect ques. Did you see Capt. Crawford when he came up?

Ans. I think he passed me—after I came out, I think he passed
227 me on the dock and went on board the boat. I don't exactly remember whether he passed me before I got on the dock, or after I got on the dock.

3rd redirect ques. Did you return on board so as to see or hear any interview between Capt. Crawford and the Slaughter party that might have occurred?

Ans. No, sir; not at that time.

4th redirect ques. What do you mean by not at that time?

Ans. Shortly after that we went to dinner, and they were down at the table when I went down.

5th redirect ques. Who?

Ans. The father of Capt. Slaughter, the ship-carpenter, and two others. Capt. Slaughter came after we were nearly through.

6th redirect ques. Do you know where Capt. Crawford was while you were at dinner?

Ans. He was at dinner with us; he was there when I went down, with the rest of them.

7th redirect ques. Was the measurement spoken of at dinner?

Ans. I asked Mr. Slaughter, the father, how he liked the boat, and he said very well. They could find nothing around New York that suited them as well. He was afraid she drew too much water.

228 8th redirect ques. Was the measurement spoken of at dinner?

Ans. Nothing more than that, to my recollection.

9th redirect ques. How were you and Mr. Slaughter, the father, sitting as to each other at dinner?

Ans. He sat pretty near the center of the table, and I sat at the forward end.

10th redirect ques. About how long after Capt. Crawford passed you, going on board, did you go on board yourself?

Ans. It was in the neighborhood of three-quarters of an hour.

11th redirect ques. What was the effect upon the water in the Minna's pier when the ferry-boats passed?

Ans. It would make a little sea there sometimes.

12th redirect ques. What ferry-boats made the sea, and how often did those particular ferry-boats pass?

Ans. It was the Hoboken ferry. I don't know particularly the time—somewhere about ten minutes apart. Then there was the Stockton. She came in after we did, generally about an hour, and went out before we did daily. She went in and out once a day.

13th redirect ques. Was there any ferry-boat sea noticed by you at the time of the measurement you have spoken of?

229 Ans. No, sir.

14th redirect ques. Can you state positively whether or not there was at that time any sea from a passing boat or otherwise?

Ans. There was none. The water was smooth. If there had been any sea, they would have got wet, for they stood in the wheel-house when the measured her.

15th redirect ques. Was any remark made, and by whom, when the draft was announced; if so, what was it?

Ans. None that I heard; only that the carpenter said she drew over four feet.

16th redirect ques. How many minutes in all were you present and within hearing at the time when the draft was being measured, immediately before it was announced, including the announcement?

Ans. From five to ten minutes.

17th redirect ques. What were your opportunities for seeing the preparations made for the measurement, before they made it in the wheel-house?

Ans. None, unless I went there to the wheel-house.

18th redirect ques. Perhaps you don't understand me. I mean seeing the making of the measuring square, and how long they were engaged about that?

230 Ans. I didn't see them make it. I saw the carpenter come aboard with the sticks.

19th redirect ques. How long was this before you heard the measure of draft announced?

Ans. About an hour.

20th redirect ques. Did you observe what they were doing during that hour?

Ans. I saw some of them moving some freight from the wheel-house door, so that they could get it open.

21st redirect ques. Did you observe any other of their movements about the boat?

Ans. Not then.

22nd redirect ques. When then did they examine the boat above and below, to your knowledge, as you have previously stated?

(Objected to by plaintiff's counsel.)

Ans. They came on board as soon as we got in, and staid there till we went out mostly. They examined her below after we got through dinner. I found them there when I went to dinner, and left them there when I came away.

33rd redirect ques Do you refer to the day when the measurement was made, or to other and previous days?

Ans. To that and to previous days also. They were there that and two or three other days.

231 The examination of the witness was here closed.

JNO. H. HADKINS.

PETER STARR,
J. W. HOWE,
Commissioners.

OCTOBER 19TH, 1865—3 *o'clock p. m.*

Parties present. Examination of JOHN L. MYER, a witness for the defendant, Julius Gerson, being sworn, testified as follows:

1st question. What is your name, age, occupation; how long have you followed it; where and in what place do you reside?

Ans. My name is John L. Myer; my age is fifty-four; my occupation is a steamboat builder. I have followed it thirty five years, mostly in the city of New York, and in a good many places on Lake Erie, Lake Ontario, Lake Champlain, West Troy, Green Point, Brooklyn, and Williamsburgh. I reside at Green Point, Brooklyn. I formerly resided in New York.

2nd ques. For how many years about did you carry on your business as steamboat builder in the city of New York, and about how many in Green Point and Williamsburgh, and as near as you can conveniently recollect during and between what years in each of these places?

232 Ans. I carried on my business in New York about twenty-eight years; and in Green Point one year; and two and a half years in Williamsburgh. I can't say during what years in each of these places, my business is so mixed up, having been called away to build boats elsewhere.

3rd ques. How many steamboats in all have you built or been engaged in building in such way as principal, foreman, contracter or sub-contractor?

Ans. All told, steamboats, steamships and barges, eighty-two as sub-contractor and foreman.

4th ques. Were you at any time employed as foreman for one Thomas Collyer; and if yea, where, in what business, and is the said Thomas Collyer now living; and if not, about what time did he die?

Ans. I was employed by Thomas Collyer at short intervals in building steamboats in the city of New York. Mr. Collyer died in the fall of 1862.

5th ques. Do you know the steamboat George Law as formerly called, now called the Minna; if so, at whose yard was she built, who was foreman at the time, and where was the yard?

Ans. I do know that steamboat. She was built at the yard of Thomas Collyer; Charles Collyer and myself were the foremen

233 at the time. The yard was at the foot of 21st street, New York.

6th ques. About what time was she built?

Ans. She was built in the year 1852 or the year 1853, I am not positive, but I think in the year 1852. It is pretty hard to recollect dates.

7th ques. Who officiated as foreman in her building?

Ans. I did, and Mr. Charles Collyer.

8th ques. Are you able to state positively what draft of water she was built to draw?

Ans. Yes, sir; I am able to state that positively.

9th ques. What draft of water was she built to draw amidships and at ends?

(Objected to as leading. Question withdrawn.)

10th ques. Are you able to state positively what draft she was built to draw amidships and at ends?

(Same objection.)

Ans. Yes, I am able to state that.

11th ques. Please to state it?

(Same objection.)

Ans. I put the water-line on myself four feet up from her keel. At ends of the vessel it was three feet and a half.

12th ques. What was the water-line put on by you?

234 Ans. Four feet amidships and three and a half feet at ends. That was the water-line put on.

13th ques. Was it put on before or after she was launched?

Ans. Before she was launched, we couldn't do it after.

14 ques. After she was launched and employed in the business, she was built for, had you any opportunity of seeing what she drew as compared with the water-line put on by yourself?

Ans. Not when she was employed in the business, but before, on her trial trip I had.

15th ques. How did her actual draft of water compare with her water-line put on by you when she was making her trial trip?

Ans. It compared an inch and a half out. She drew an inch and a half less.

16th ques. For what business was she built?

Ans. For a passenger boat.

17th ques. For passengers only?

Ans. No, to carry a little freight when it offered.

18th ques. Did you have her on the dry-dock some years after she was built; if so, about what year?

Ans. Yes, sir; about 1857—the winter of 1857.

19th ques. Did you make any examination as to her draft of

235 water then; if so, what, and with what result?

Ans. Yes, sir; we made a through-out examination of her all once. The result was the vessel was apparently as good as the day she was launched.

20th ques. With what result as to her draft of water?

Ans. I couldn't see that there was any difference.

21st ques. In ordinary description and language, what is meant and understood among steamboatmen by the draft of a steamboat?

Ans. That the draft of the vessel is counted by the boiler being filled with water and a sufficient quantity of coal to carry her to the end of her voyage. That is what we count the draft of a steamboat.

22nd ques. Would you count it that way in case of an order to build a steamboat of a certain draft?

Ans. We always count it that way in building steam vessels.

23rd ques. Is there any difference in this rating between sailing vessels and steamboats, and between steamships and steamboats; if so, what is it?

Ans. There is no difference between steamships and steamboats. As for sailing vessels, I know nothing about them. I never built any sailing vessels.

236 24th ques. Describe the build of the George Law or Minna as to any particularity about it.

Ans. There was nothing different about her from any other light steam vessel. She was built as light as we could build her.

25th ques. How was her hull as to breadth running down to her keel?

Ans. Her breadth was a reasonable breadth in proportion to her length. We carried it pretty well to her ends with a flat bottom.

26th ques. Are there not some steamboats called "built sharp?" If so, what does that mean, and how was the George Law as to that?

Ans. Some steamboats are built that are built very sharp. The vessel must be very long to get her thin like a razor blade. The George Law was as sharp as they could make her agreeable to her length.

27th ques. If a boat is built sharp what effect has it upon her loading down?

Ans. It has a great deal of effect. She loads down so much easier.

Cross-examination of the witness John L. Myer:

1st ques. Have you ever built any steamboats or other vessels as principal?

Ans. No, sir.

237 2nd ques. Then has all your experience in building been as foreman or employee of some other builder?

Ans. Yes, as foreman and sub-contractor. Not much as foreman; mostly as sub-contractor.

3rd ques. Do I understand you to say that your memory is not good as to dates?

Ans. Yes, sir; I say it is not good as to such long dates.

4th ques. How do you arrive at the impression that the Minna was built in 1852 or 1853, and do you feel sure as to those dates?

Ans. I do not feel exactly sure as to those dates.

5th ques. May she not have been built five years before that time?

Ans. I should think not.

6th ques. What was her frame built of—of what wood?

Ans. Of oak, chesnut, and red cedar.

7th ques. Does your description include the floor timbers?

Ans. Yes, sir; they were oak and chesnut.

8th ques. What do you mean by a water-line? Describe it.

Ans. I mean by a water-line, or line put on for the draft of the vessel, what we suppose she will draw. It is a line drawn on the

238 side of the vessel from one end to the other.

9th ques. The George Law or Minna was not intended at the time she was built to carry heavy cargoes, was she?

Ans. No, sir.

10th ques. Would she or not have been built very differently, had she been so intended?

Ans. No, not a great deal different. She would have been built a little heavier and a little stronger.

11th ques. Did you ever own a steamboat?

Ans. No, sir.

12th ques. Did you ever buy or sell one?

Ans. No, sir.

13th ques. Do you call the George Law or Minna a sha'p boat?

Ans. Yes, sir; I call her a sharp boat for one of her class.

14th ques. What do you mean by "for a boat of her class?"

Ans. I mean by that, that we made her as sharp as we could on account of her short length. She was a small boat—short.

15th ques. Why did you say then in answer to the 25th direct interrogatory that she carried her breadth pretty well to her ends?

Ans. I say so still. She carried her floors pretty well to her

239 ends. That gives her buoyancy. Still she is sharp. If I said in answer to the 25th direct interrogatory that we carried her "breadth" I should have said her "floors."

16th ques. Is the George Law built anything like a razor blade?

Ans. No, sir.

17th ques. What is the use of putting on a water-line?

Ans. To paint the bottom green, and to tell how much the vessel draws, and to paint white above the green.

18th ques. Can you tell by the water-line before a vessel goes into the water how much she will draw, or is an indication only of her estimated draft?

Ans. It is an indication only as a general thing. We cannot tell exactly.

19th ques. You say you estimate the draft of water in the same manner as to all steam vessels. What is the difference between a steamboat and a steamer or steamship?

Ans. We don't make any distinction whatever. We estimate all steam vessels alike.

20th ques. Is there any difference between a steamboat and a steamship; if so, what is it?

Ans. There is a great deal of difference. The steamship is built heavier in proportion to her size than a steamboat is. The steam-
240 ship has no guards only just by the wheel. That is about all the difference.

21st ques. What, in your judgment, regulates and fixes the draft of water of a vessel?

(Objected to because the question is to a point of pure science, and the witness has not been examined as to whether he is an expert in such matters.)

Ans. That is out of my line of comprehension. All builders have a man hired expressly for such things and he is called the draughtsman.

22nd ques. Can you not say from your general knowledge and experience that the draft of water of any vessel will depend on her weight and shape?

(Objection repeated.)

Ans. It depends altogether on those things—on the weight of the timbers used and the shape of the vessel.

23rd ques. Do you consider that it requires any special scientific education or knowledge to arrive at that conclusion?

Ans. No, sir.

24th ques. Then can there possibly be any difference as to what draft a vessel will draw, whether she be a steam vessel, or a sailing vessel, or a tow-boat, or a scow? Will not her draft in any case be dependent on her weight and form?

241 Ans. Each vessel will depend as to her draft as to her shape, weight, and form. It makes no difference what kind of a vessel she is.

JOHN L. MYER.

Examination further adjourned to 31st October, 1865.

PETER STARR,
J. W. HOWE,
Commissioners.

OCTOBER 31ST, 1865—2 o'clock p. m.—Parties present by their respective counsel. Examination of HUMPHREY H. CRARY, a witness for the defendant, Julius Gerson, being duly sworn, testified as follows:

1st ques. What is your name, age, residence, business, and how long have you been engaged in it?

Ans. My name is Humphrey H. Crary; age is 49 years; residence 49 King street, New York City; business, steamboat business, running steamboats; have been steamboating for 30 years, and have been steamboat owner for about 15 years.

2nd ques. When the draft of a steamboat is said to be a certain number of feet what is understood by it among steamboat men?

Ans. It would be understood that when a vessel is built and equipped with her water and fuel in ready for service that would be her
242 draft.

The direct examination of witness here closed. No cross-examination of witness.

HUMPHREY H. CRARY.

PETER STARR,
J. W. HOWE,
Commissioners.

Adjourned to November 2nd, 1865, at 2 o'clock, p. m.

JOSEPH J. COMSTOCK, a witness produced by Julius Gerson, being duly sworn, testified as follows:

1st question. What is your name, age, business, and place of business, and where do you reside?

Answer. My name is Joseph J. Comstock; my age is fifty; I am a shipmaster by profession; I am at present agent of a steamship line at No. 7 Broadway, New York; I reside at No. 3 West 37th street, New York.

2nd ques. What steamship line are you agent of?

Ans. The New York and Havre steamship line.

3rd ques. How long have you been connected with steam vessels, and with what description of steam vessels, and in what capacity?

Ans. I have been connected with steam vessels for twenty-five years; ocean-going steamships and steam vessels on inland waters. I
243 have been commander of such vessels. I served my apprenticeship at sea, and when I went on steam vessels I went as commander.

4th ques. Please state some of the inland and ocean steamers of which you have been commander.

(Objected to as immaterial.)

Ans. I have commanded for inland steamers the Bunker Hill, Massachusetts, Narragansett, Mohican, Rhode Island, Bay State, Empire State. For ocean steamers the Baltic, Atlantic, and Savannah.

5th ques. Do you know what is understood among steamboatmen by the draft of a steamboat when she is described generally as drawing a given number of feet?

(Objected to as incompetent.)

Ans. I do. It is when she is ready to receive her cargo.

6th ques. What then is she supposed to have on board?

Ans. Her fuel, water in her boilers, and her complete outfit ready for service.

7th ques. Does a steamboat draw deeper in salt or fresh water, and if so, in which does she draw deeper?

Ans. In fresh water.

8th ques. What is the comparative quality of the water in the
244 harbor of New York and in Chester River emptying into Chesapeake Bay nearly opposite Baltimore, near the mouth of that river, as to saltness and freshness, if you know?

Ans. I might answer by saying I don't know, but in seasons of the year when there is a freshet in the Hudson River there would not be much difference; in other seasons there would.

9th ques. In ordinary seasons which water would you pronounce comparatively fresher from your general knowledge on the subject?

Ans. The water in Chester River.

10th ques. In the case of a steamboat how is her draft affected, by the relative depth or shallowness of the water in which she is?

Ans. A vessel under way in water a little over her draft sucks down much deeper than in deep water.

Cross-examination:

1st ques. Would it make any difference as to such sucking down, other things being equal, whether she was a steam or sailing vessel?

Ans. It would make more difference to a steam vessel than a sailing vessel, particularly to a side-wheel steamer.

2nd ques. Why?

Ans. Because the wheel of a steamer takes the water out from
245 under her, and there is not water enough to fill up the displacement.

3rd ques. How is this sucking down affected by the rade of speed of the vessel?

Ans. There is less sucking down at a low rate of speed than at a high rate.

4th ques. Can you fix or state any ratio for this sucking down, taking the ordinary draft of a vessel as a basis?

Ans. I cannot; but I have struck in 12 feet of water going at a high rate of speed with a vessel drawing ten feet.

5th ques. What rate of speed do you refer to in your last answer, and of what tonnage was that vessel?

Ans. Sixteen or seventeen statu'e miles per hour, in a vessel with a displacement of fifteen hundred tons.

6th ques. From your experience to what extent would that vessel have sucked down at that time and place had her speed been only eight miles per hour?

Ans. I should judge from eight to ten inches.

7th ques. And would you say it would have been less in proportion at any given less rade of speed?

Ans. I should say it would.

8th ques. Have you ever made any actual examination of the qualities of the waters of the Chester and Hudson Rivers?

246 Ans. I have not.

9th ques. How then do you pronounce one fresher than the other?

Ans. From my general knowledge of the waters entering into Chesapeake Bay. They are rapid rivers and the water can be drank much nearer their mouths than that of the Hudson at its mouth.

10th ques. How is this general knowledge of yours derived?

Ans. I am perfectly familiar with the state of the Hudson and I have made many passages up and down the Chesapeake Bay to Baltimore and Washington.

Re-direct examination:

1st ques. As a matter of hydrostatics is there not more bouyancy to a floating object afforded by deep water than by water nearly as shallow as the depth of displacement of such object?

(Objected to.)

Ans. There is some, but with objects motionless it cannot amount to much.

JOSEPH J. COMSTOCK.

PETER STARR,
J. W. HOWE,
Commissioners.

247 ANDREW CRAFT, a witness produced on the part of Julius Gerson, being duly sworn, testified as follows:

1st ques. What is your name and office, and where do you carry it on, and what has been your experience as to steamboats?

Ans. My name is Andrew Craft; I am an assistant local inspector of steamers in the service of the United States in this city; my experience in steamboats has been this: I have had no experience in sailing them; I have helped build them from 1825 to 1849.

2nd ques. When a steamboat is described to be of any certain draft of water, as if it should be said of a steamboat that she draws 3½ feet water, what, if you know, would be understood as being on board the vessel to make her such draft?

(Objected to.)

Ans. When the boat is complete, without cargo, with her fuel and her boilers filled with water, and her outfit generally; anchors and such things on board.

ANDREW CRAFT.

PETER STARR,
J. W. HOWE,
Commissioners.

248 WILLIAM BRADFORD, a witness produced on the part of Julius Gerson, being duly sworn, testified as follows:

1st ques. What is your name, age, business, and where do you reside?

Ans. My name is William Bradford; I am forty-six years old; I am a supervising inspector of steamboats; I reside in the city of Brooklyn, Kings County, New York.

2nd ques. Do you mean you are a United States inspector and supervisor; if so, what is the title of your office, how long have you held it, and state briefly what had been your previous connection with steam boats, and for how many years?

Ans. I am a United States inspector and supervisor, appointed by the President of the United States. That is the title of my office. I have held it since November, 1865. I was in command of steamboats for four years previous to November, 1865, without intermission. I had been master of sailing vessels and steamers for nineteen years previous to that.

3rd ques. Suppose a river steamboat built for freight and passengers to be lying at a pier in the city of New York for sale, and that she was described as drawing from three to four feet water, what would
249 steamboat men in New York City, according to your opinion, understand by such description of her draft; that is, what would they understand her to have on board when drawing that much water?

Ans. It would be, in my opinion, that the draft would be understood to be whatever she drew with her boiler full of water and with whatever quantity of coal she had bunker room for.

No cross-examination.

W'M BRADFORD.

PETER STARR,
J. W. HOWE,
Commissioners.

JOHN ENGLIS, a witness produced on the part of Julius Gerson, being duly sworn, testified as follows:

1st question. What is your name and age, and where do you reside?

Answer. I am fifty six years old; my name is John Englis; I reside at Ravenswood, on Long Island.

2nd ques. What is your particular business?

Ans. Shipbuilder.

3rd ques. Have you built steamboats to any extent?

Ans. I have built fifty-eight.

250 4th ques. At what place was the yard where you built them?

Ans. Most of them at the foot of 10th street, East River, New York City.

5th ques. Please name a few of the most important ones built by you.

(Objected to by counsel for Mr. Slaughter as immaterial.)

Ans. (Subject to objection.) The steamers St. John, Dean Richmond, Newport, Old Colony, Western World, and Plymouth Rock, on Lake Erie.

6th ques. Are you familiar with the practical and scientific parts of steamboat building?

Ans. Yes, sir.

7th ques. Is there any difference between the depth of water the same vessel draws in salt water and in fresher water?

Ans. I have never seen the difference, but there is a difference, no doubt. I have never seen a vessel in salt water go into fresh water.

8th ques. Do you wish to explain your last answer in any way? if so, please explain it.

(Objected to as uncalled for and improper.)

Ans. I have seen boats start from New York, and go to Albany, but I have never noticed the difference between the draft of water

251 here and there.

9th ques. Is there a difference between the depth of water a steamboat draws when at rest and when under way; if there is, in which case does she draw most, and why?

Ans. She draws most when under way. The action of the wheel on the water keeps the water away from the boat.

10th ques. Is there a difference between the depth of water a steamboat draws in deep water and in water as shallow as the steamboat *awee* proper draft, or nearly as shallow; if so, what difference, and why?

(The witness asks: The difference when she is under way or laying *sill?*)

Question. Under way.

Ans. When she is under way in shallow water you can't let a boat go her full speed; she will drop right down. The reason is, she sucks to the bottom. I have seen boats go by my yard, where there is a shallow spot, and as soon as they got to it the guards would drop right down to the water aft; as soon as they got over it, they would go up again.

11th ques. Suppose a boat to draw four feet as her ordinary draft under way, in what depth of shoal water more than four feet deep would she ground when under way?

Ans. I cannot say.

252 12th ques. Please give something in the nature of an estimate.

(Objected to as incompetent.)

Ans. I cannot. You want a boatman to tell that.

13th ques. In the case of a freight and passenger river steamboat, when she is spoken of or described simply as drawing so much water,

what condition as to burden is the boat understood among builders to be in in order to answer to the described draft?

Ans. When she has water in her boilers, with her furniture and machinery aboard.

Cross-examination:

1st ques. When you said, in answer to the 10th question, that a boat going over a shallow spot would suck to the bottom, you meant that she would suck towards the bottom, did you not?

Ans. I did.

JOHN ENGLIS.

PETER STARR,
J. W. HOWE,
Commissioners.

PETER C. SCHULTZ, a witness produced on the part of Julius Gerson, being duly sworn, testified as follows:

253 1st ques. What is your name, age, business, and where and how long have you carried it on?

Ans. My name is Peter C. Schultz; I am fifty-nine years old; I am a steamboatman; harbor towing is my business; I have carried it on for twenty years in the city and harbor of New York.

2nd ques. Have you been a steamboat officer; if so, what, and how long?

Ans. I have been; I have been master of a boat seven or eight years.

3rd ques. Have you bought and sold steamboats, and are you now a steamboat owner?

Ans. I have, and am now an owner of steamboats.

4th ques. When a river freight and passenger steamboat, offered for sale in the city of New York, and there being is described as drawing so many feet water, what do steamboat men in New York understand as to the burden of the boat in rating the draft as described?

Ans. (The witness asks, Do you mean as to light or loaded? Def't's counsel answers, Yes, I mean as to light or loaded.) The witness answers: If I was to sell a boat, I should call her light draft. If I should sell a man a boat, and he asked how many feet water she drew,
254 and I should say she drew five feet, I should mean she drew that light; that is, with her water on board, and coal to last five or six hours. That is what we generally call her draft. I should buy or sell that way.

No cross-examination.

PETER C. SCHULTZ.

PETER STARR,
J. W. HOWE,
Commissioners.

AMOS W. SILKWORTH, a witness produced, sworn, and examined on behalf of Julius Gerson, deposed as follows:

1st ques. What is your name, age, business; how long have you been engaged in it, and where were you carrying it on in the summer of 1863?

Ans. Amos W. Silkworth; my age is 49 years; business, shipbuilder; I have been engaged in it 33 years; I was carrying it on in the summer of 1863, at Astoria, Long Island.

2nd ques. During that summer did you do any repairs on the steamboat Minna, otherwise George Law, then the property of Julius Gerson, as reputed?

Ans. I did.

255 3rd ques. What was the general character or classification of those repairs?

Ans. Caulking, rebuilding, painting, plumbing, joiner work, and the shipwright's work.

4th ques. What amount of money was paid you for your work, labor and materials, in repairing the said vessel at the time referred to?

(Objected to.)

Ans. Twelve thousand six hundred and eighty-four dollars and eighty-three cents, in one bill, and there was another bill that I cannot tell the amount of now.

5th ques. Can you give us about the amount?

Ans. I can, about. It was about seventeen hundred dollars.

6th ques. Were the repairs for this last bill done during the same summer, or when?

Ans. During the same summer.

AMOS W. SILKWORTH.

PETER STARR,
J. W. HOWE,
Commissioners.

Adjourned to Friday, the 5th of October, 1866, at 2 o'clock, p. m.

FRIDAY, *October 5th*, 1866.—Adjourned to 8th October, 1866.

Adjourned to 9th October, 1866.

256 OCTOBER 9TH, 1866.

HORACE THEALL, a witness produced, sworn, and examined on the part of Julius Gerson:

1st ques. What is your name, age, business; how long have you been engaged in it in New York City; what is the style of your firm, and about how long has your firm been in existence?

Ans. Horace Theall; age, 44 years; business, steam-engine & boiler builder; have been engaged in it in New York City 13 or 14 years; the style of our firm is Cobanks and Theall—our firm has been in existence 13 to 14 years.

2nd ques. While the steamboat Minna was the reputed property of Julius Gerson, and after her running upon a rock in 1863, did your firm put any repairs upon her?

Ans. Yes, sir.

3rd ques. What was the amount paid your firm for those repairs?

Ans. I can't recollect well without referring to this paper—about $5,000.

4th ques. Refer to the paper and then answer.

Ans. $5,145 73, to the best of my belief. From that should be deducted a credit of $339 62.

5th ques. What was that credit for?

Ans. For returned brads, iron, and such things.

6th ques. Then, although you made this credit, you got the amount of it in part payment?

257 Ans. Yes.

7th ques. Between what dates did you do the repairs embraced in the bill which you have spoken of?

Ans. May 9th and July 6th, 1863.

8th ques. In the spring of 1864, did you do anything about putting a new boiler in the Minna?

(Objected to as leading. Question withdrawn.)

9th ques. Did you do anything on the Minna in the spring of 1864?

Ans. Yes, sir. There is a bill here of $865 60, in March, 1864.

10th ques. Was that the amount paid you?

Ans. Yes, sir.

11th ques. During the period from May 9th, 1863, to the close of the spring of 1864, was any other money paid you for work on the Minna, besides what you have mentioned; if so, how much, and what?

Ans. There is a number of bills here.

12th ques. I want you to give the total amount paid your firm for work and repairs on the Minna from May 9th, 1863, up to the latest date of which you have any memorandum, and specify the dates beginning and concluding the period.

Ans. May 9th, 1863, to March 31st, 1864, $7,846 39.

13th ques. Is there or not the price for a boiler included in that amount?

Ans. Oh, no. This amount was repairs only.

258 Examination-in-chief ended.

Cross-examination:

1st. cross-ques. Do we understand you to say that all the bills you have spoken of were for repairs on *on* the engine and boilers?

Ans. Yes; to the best of my knowledge they were.

2nd cross-ques. And not for a new engine or a new boiler?

Ans. No, sir.

Cross-examination ended.

Redirect examination:

1st redirect ques. Was any of the work done about any new boiler?

(Objected to.)

Ans. It was work connecting up a new boiler in the spring of 1864—not for building it.

HORACE THEALL.

PETER STARR,
J. W. HOWE,
Commissioners.

Adjourned to October 11th, at 2 p. m.

OCTOBER 11TH, 1866—2 p. m.—The parties duly appeared by their respective counsel.

DANIEL H. BURDETT, a witness produced, sworn, and examined on the part of Julius Gerson, deposed as follows:

259 1st ques. What is your name, age, business firm; and where was your business carried on the 3rd day of February, 1864?

Ans. My name, Daniel H. Burdett; age, 47 last July; business, auctioneer; firm, Burdett, Jones & Co.; business was carried on at 109 Wall st., New York City, on the 3rd day of Feb'y, 1864.

2nd ques. On the 3rd day of February, 1864, did you make sale of any steamboat articles, over in Jersey City, on account of Johnson and Higgins? if so, what articles?

(Objected to.)

Ans. I did; a boiler and engine, and some scrap iron.
3rd ques. Who did you sell the boiler to, and at what price?
Ans. Julius Gerson & Co., for $4,000; the boiler alone.
4th ques. Was the money paid?
Ans. The money was paid.
The examination-in-chief was here ended.

Cross-examination:

1st cross-ques. Did you see the boiler?
Ans. Yes.
2nd cross-ques. Do you recollect the dimensions?
Ans. No; I do not know anything about the dimensions.
260 3rd cross-ques. Do you know where the boiler came from, or who made it?
Ans. I do not.
4th cross-ques. On whose account did you make the sale of the same?
Ans. Johnson and Higgins.
5th cross-ques. Then they were the owners at the time of the sale?
Ans. Yes, sir; so far as I know.
6th cross ques. Was it a new boiler, or an old one?
Ans. I take it to be an old one. I don't know whether it was old or new. I took it to be a second-hand one.
7th cross-ques. Did the boiler, at the time you saw it, have the appearance of having been previously in use?
Ans. Well, I am so little versed in those things, but I should think it had, from my recollection.
8th cross-ques. Is the firm of Johnson and Higgins still in existence?
Ans. Yes, sir.
9th cross-ques. Where do they do business?
Ans. I can't give you the number, but I can tell you exactly where.
10th cross-ques. Where?
Ans. Corner of Wall and Water st., New York City?
11th cross-ques. Did you have any conversation with the purchaser, Gerson, as to what use he proposed to make of the boiler so sold him?
261 Ans. Not to my recollection.
12th cross-ques. Were you, then, familiar with the market value of boilers of that description?
Ans. No, sir.
13th cross-ques. You sold simply as auctioneers?
Ans. Yes, sir.
Cross-examination here ended.

Redirect examination:

1st redirect ques. From your observation of the boiler and remarks of bidders at the——
(Question withdrawn.)
1st redirect ques. Were there many bidders at the sale?
Ans. Several.
2nd redirect ques. Was the bidding dull or animated?
Ans. It was'nt animated and it was'nt dull.
3rd redirect ques. From your own observation and the comments of bidders in your hearing, did you form an opinion as to the value of the boiler compared with the price it brought?
(Objected to.)

Ans. Well, I recollect, I think, that I formed an opinion from hearing remarks that the boiler was cheap.

DANIEL H. BURDETT.

PETER STARR,
J. W. HOWE,
Commissioner.

262 Adjourned to October 16th, 1866, at 2 p. m.

Examination further adjourned to 31st Oct., 1866.

OCTOBER 31ST, 1866.

CHARLES POST, a witness produced, sworn, and examined on the part of Julius Gerson, testified as follows:

1st ques. What is your name, age, business; how long have you been engaged in it, and where do you reside?

Ans. Charles Post; age, about 47; business, I am acting as captain and agent for the Long Island North Shore Passenger & Freight Transportation Company. Have been engaged in it a little over five years. I reside at Roslyn, Long Island.

2nd ques. Are you acquinted with the handwriting of Stephen Tabor, formerly president of the company you have just mentioned, and with the handwriting of Julius Gerson?

Ans. Yes, sir; I think I am.

3rd ques. Please examine the paper writing now shown you, and state in whose handwriting are the signatures to it?

(Paper shown witness.)

Ans. I think they are Stephen Tabor's and Julius Gerson's.

263 4th ques. At the date of that paper writing, who was president of the company you have just mentioned?

Ans. Stephen Tabor.

(The counsel for Julius Gerson now offers the said paper writing in evidence to be identified by the commissioners and read upon the trial, the said paper writing purporting to be a charter-party for the steamboat Minna, dated June 12th, 1863, and identified by the commissioners with their respective initials, and marked Exhibit X.

The admission of said paper writing in evidence objected to by counsel for H. B. Slaughter.)

5th ques. Do you know whether or not the boat Minna, referred to in said charter-party, ran under it? If so, answer whether she did or not.

(Objected to.)

Ans. She did a part of the time.

6th ques. How long have you been a steamboat captain, and how long otherwise, and in what capacity employed about steamboats?

Ans. I have been a little over five years a captain. I have been employed in no otherwise about steamboats.

7th ques. I mean, during your whole life, what employment
264 have you had about steamboats, and for how many years in all have you been employed about them, and in what capacity?

Ans. That constitutes all the time about steamboats.

This charter-party made and entered into this twelfth day of June, 1863, by and between Julius Gerson, of the city, county, and State of New York, owner of the steamer George Law or Minna, of the burthen of about two hundred and fifty tons, now lying at Astoria, near to the

city of New York, of the first part, and The Long Island North Shore Passenger and Freight Transportation Company, of the second part, witnesseth:

That the said party of the first part, for and in consideration of the covenants and agreements hereinafter mentioned, to be kept and performed by the said parties of the second part, does hereby covenant and agree to charter and let to the parties of the second part the said steamer George Law or Minna for three months, to commence running as soon as the said boat is in readiness, and within fifteen days from the date of this instrument, the party of the first part, however, to give four days' notice in writing to the parties of the second part of the readiness of the said boat to begin to run under this charter. The said boat is to run daily trips from the Peck-slip dock, now
265 leased and occupied by the parties of the second part, to Rosyln, in Queen's County, and intermediate landings, upon a time-table to be prepared by the parties of the second part, and making one round trip per day for each week day, from said dock to Glencove and Roslyn and the intermediate docks, and return, touching at the points designated by the parties of the second part, said parties of the second part having the right to fix the time and designate the points of stoppage and departure without incurring any risk whatever on account of such control or the chartering of said boat, except the payment of the sums of money, and performing the conditions hereinafter mentioned, which conditions are as follows, to wit:

First. The said party of the first part, during the whole time covered by this charter, engage to victual, officer, man, furnish, and equip said steamer in every way and manner, and furnish all supplies necessary to the proper running of said steamer, for the price or sum of one hundred dollars for each of said round trips.

Second. The said party of the first part agrees to take on board at each and all the docks to be designated by the parties of the second part, and also to deliver on said docks such passengers and lawful freight as the parties of the second part may think proper to
266 ship and transport, and to allow to be collected by the agent or clerk of the parties of the second part such passage-money and freight as said parties of the second part shall direct to be charged and collected for such passengers and freight. And the said parties of the second part, in consideration of the above covenants and agreements to be kept and performed by the party of the first part, do covenant and agree with the said party of the first part to *to* charter and hire the said vessel for the said three months, and to pay for each round trip so to be run by said steamer the price or sum of one hundred dollars, and, in addition, to provide and pay for such docks as shall be designated for the use of said steamer, and to provide a dock to be used in the city of New York, where a supply of fresh water shall be obtained by the parties of the second part; and also to furnish a supply of fresh water at Roslyn; and also to furnish, at the expense of the parties of the second part, a suitable clerk, who is to be boarded by the party of the first part without charge.

Should the said parties of the second part determine and conclude to extend said daily trips from the Glencove dock to Oyster Bay, Lloyd's dock, and Cold Spring, and omit running to the Glencove and
267 Roslyn docks, then they shall have the right to do so by paying, in addition, fifteen dollars per day for each and every day said extended trip shall be so run.

And it is further agreed between the parties to this instrument that

the said parties of the second part shall have the option of purchasing the said vessel at any time on or before the first day of August next, upon paying to the party of the first part the sum of thirty-two thousand dollars, whereupon the parties of the second part shall be released from all claims for charter money for the balance of said term.

In witness whereof the parties hereto have hereunto, and to a counterpart hereof, interchangeably set their hands and seals the day and year first above written.

STEPHEN TABOR, [SEAL.]
Pres't Long Island N. S. Pas. & Fr't Trans. Co.
JULIUS GERSON. [SEAL.]

Exhibit X.—J. W. H., commissioner, P. S., commissioner.

8th ques. During this time have you been concerned in and about the buying or selling of steamboats?

Ans. Yes, sir.

268 9th ques. Do you know what is understood among steamboatmen when a river steamboat is described as drawing so much water, that is, as to whether she draws so much light, or so much looded?

(Objected to as leading.)

Ans. The draft of water is always considered when light, so far as I know anything about it.

10th ques. Tell us, then, how far you can speak of yourself as knowing anything about it.

Ans. Well, we have bought, sold, and built, and we always rate them in that way when I have anything to do with it.

11th ques. What have you had to do with it?

Ans. Well, I have been one of the parties that have been to examine boats to measure them, and in making contracts for building, that they should not draw over so much water when built new.

CHARLES POST.

PETER STARR,
J. W. HOWE,
Commissioners.

Adjourned to November 2nd, 2 o'clock p. m.

Further adjourned to Nov. 5.

NOV. 5TH, 1866.—JAMES LAWSON, a witness produced, sworn, and examined on the part of Julius Gerson.

269 1st ques. What is your name, business, and place of business, and how long have you carried it on?

Ans. My name is James Lawson; my business is adjuster of averages; my place is 62 Wall st.; I have been an adjuster 21 years and over.

2nd ques. Do you know whether or not there was a loss on the steamboat Minna in the forepart of the year 1863? If so, state whether there was or not.

Ans. There was a loss on her in 1863.

3rd ques. How was the loss occasioned?

(Question withdrawn.)

3rd ques. Were any repairs made under this loss? If so, were they made by the insurance companies, or by the owners?

Ans. Heavy repairs were made by the insurance companies—by their agents.

4th ques. In what proportion were those repairs to be paid for, as between the insurance companies and the owner?

Ans. The companies paid two-thirds, and the owner paid his one-third, according to the usual rule.

5th ques. Who adjusted the loss?—(Stricken out.)

Ans. Lawson and Walker, of which I am a member. I did the business.

6th ques. Can you name the companies interested in the loss, and whether one of those companies acted for itself and the others in the settlement? If so, which?

270 Ans. I remember the Corn Exchange and the Phœnix and the Atlantic. The Corn Exchange acted for all.

7th ques. Can you tell us about the amount, the whole three-thirds, at which the adjustment was settled?

Ans. I think it was over twenty thousand dollars. How much over I can't say.

Cross-examined by Mr. Spaulding:

1st ques. At the time of making the adjustment of which you have spoken, or at any time before, had you ever seen the Minna, or made an examination of her as to the extent of the injuries from which the losses occurred?

Ans. I saw the Minna at Yonkers. The captain took me on board on her trial-trip after the repairs had been nearly completed. I made no examination of her; no adjuster ever does. We know by the documents placed before us what is necessary to make repairs.

2nd ques. I understand you to say that you have no personal knowledge, from inspection of the vessel, as to the extent to which she was injured?

Ans. I do say so.

3rd ques. How, then, are you able to determine to what extent a vessel requires repairs after injury?

271 Ans. I know by the documents laid before me—protests, surveys, et cetera.

4th ques. Are these documents of which you speak made up by other parties and by them submitted to you, and were they in the case of the Minna?

Ans. They are always made up by third parties, and sometimes and generally presented by the owner or his agent. In the case of the Minna, to the best of my recollection, the companies took the entire charge and Mr. Gerson left it to them.

5th ques. But you adjusted the loss in the case of the Minna from documents furnished you by other persons?

Ans. I have no doubt that the documents were furnished to me by the underwriters.

The examination of this witness was not concluded and is to be resumed.

The cross-examination of James Lawson resumed:

6th ques. Did you make up your adjustment from bills handed to you and was that the only source of your knowledge of the injuries to and repairs upon the vessel?

Ans. I made up the adjustment from the bills of the various mechanics, and stated to Mr. Gerson how much the companies ought to pay. My statement was a little less than they offered, and I said settle with

them on their offer. I thought some of the bills were high and I
272 sent for Mr. Silkworth and the carpenters, and they came to my office, and they explained to me what work they had done and we consented to pay the bills. I did not see the injuries to the vessel, but I saw the vessel while repairing on her trial trip.

7th ques. Did you see all of the repairs made which were made and can you state of your own knowledge what was the extent and value of those repairs. I mean aside from any information derived from the bills and surveys presented to you as you have stated?

Ans. No, sir. I never know anything of the repairs of a ship except from the surveys, and bills, and such explanations as the master mechanics and builders give me.

8th ques. Is that the uniform and customary course and practice of a marine adjuster?

Ans. It is so with the adjusters of New York.

9th ques. Please state particularly how, with respect to your usual practice, made up and stated the average in the case of the Minna? Did you make up your usual formal average statement and deliever it to the insurance companies or to Mr. Gerson? If not, then what did you do?

Ans. I stated the amount in my own figures from the bills, and showed Mr. Gerson the amount of his claim by my figures, which
273 being a little less—a very little—than the companies offered to pay him, I advised him to settle, and no regular copy of my adjustment was made out in consequence, nor any presented to the companies.

10th ques. To whom, if you know, was the company's offer made?

Ans. I knew only from Mr. Gerson. He told me the company's offer.

11th ques. Then in testifying as to an offer do we understand you to speak only from information derived from Mr. Gerson?

Ans. My impression is that I conversed with the Corn Exchange people, and they said they had made an offer, but I do not remember that the amount was stated by anybody except Mr. Gerson, nor do I remember the amount he stated.

Redirect examination of James Lawson:

1st ques. Do you recollect whether the insurancies covered the entire loss or only a proportion of it; if so, what proportion?

(Objected to.)

Ans. The policies covered only two-thirds of the loss, and Mr. Gerson bore the other third himself. The general rule of marine adjustments is "one-third off, new for old."

274 2nd ques. What I want to know is whether you recollect whether the insurances covered the entire loss, allowing one-third new for old, or whether they only covered a proportion of the loss making the same allowance and leaving the balance of the loss, if any, to be borne by Mr. Gerson?

Ans. I don't really know how to answer that question, but I understand it thus. There were three or four policies on the vessel, to the best of my remembrance, covering the whole vessel and the cost of repairing her. The companies paid two-thirds and Mr. Gerson one-third.

JAMES LAWSON.

PETER STARR,
J. W. HOWE,
Commissioners.

PETER TAIT, being called as a witness on the part of Julius Gerson, and sworn, testified as follows:

1st ques. Are you a clerk in the Corn Exchange Insurance Company?

Ans. Yes.

2nd ques. Can you give us the amount paid by that company for the underwriters ⅔ on the loss on the Minna, 1863? if so, give it to us.

Ans. Fourteen thousand and eighty dollars.

3rd ques. For what companies and what amounts for each did
275 the Corn Exchange Company make that payment?

Ans. Atlantic, $3,520; Kings, $3,520; Phœnix, $3,520; and for the Corn Exchange, $3,520.

4th ques. At what time was the final payment made?

Ans. About July, 1863.

Cross-examined:

1st ques. In 1863 were you a clerk in the Corn Exch. Ins. Co?

Ans. No.

2nd ques. How then are you able to say that the payments of which you have spoken were in fact made?

Ans. From receipts filed in the office. The receipts are not for the exact amounts, because it was compromised for a less sum than the receipts show.

3rd ques. What was compromised?

Ans. The amount to be paid by the companies for the repairs on the boat. The compromise was with the owner, Mr. Gerson.

4th ques. Then $14,080, was not in part paid by the companies, but a less sum?

Ans. *Ans.* It is the reverse. $14,080 was the actual amount paid by the companies compromised from a larger sum.

5th ques. What was that larger sum?

Ans. $14,764 83.

276 6th ques. You have spoken of receipts in the company's office. What is the nature of them and by whom are they executed?

Ans. A receipt by A. A. Silkworth for repairs. Receipts from the Derrick Company. Two receipts from steam propeller "Ruth." Two receipts from steam propeller "H. P. Farrington."

7th ques. What does the receipt from the Derrick Co. purport to be given for?

Ans. Raising sunken steamer, Minna.

8th ques. What is the amount?

Ans. $1,625.

9th ques. What do the two receipts from the steam propeller Ruth purport to be given for?

Ans. Towing derrick for steamer Minna.

10th ques. What is the amount?

Ans. One $50; and the other $90.

11th ques. What do the two receipts of the propeller H. P. Farrington purport to be given for, and for what amount?

Ans. The same service and the same amount.

12th ques. What does the receipt from Silkworth purport to be given for, and what amount?

Ans. For repairs, and I think the amount is $12,684 83.

13th ques. Then what you know about the payments of the losses to the Minna and payment for repairs on same boat is from the
277 fact that the Corn Exchange Insurance Company is in possession of the receipts of which you have spoken?

Ans. Yes, and gave their checks for the most part of the money. Part was paid in checks and part in cash, and the books show the cash paid, and the check-book shows the checks which are entered on the books as cash.

14th ques. Your only knowledge of the cash payment or payment by a check is derived from an inspection of the books of the Corn Exchange Ins. Co.?

Ans. Yes.

Reëxamined by Mr. Huntington:

1st ques. What account will you give as to the difference of $175 between the amount of the larger sum you gave and the amount of the receipts?

Ans. It was for services of W. H. Waisor, then secretary of the company, for attending to the loss, and to the captain of the Minna $25 for looking after the company's interests.

2nd ques. Where is W. H. Waisor?

Ans. His address is Howelsville, State of New York.

3rd ques. Does Mr. Gerson seem from the books to have been paid part of the underwriters' loss; if so, what part?

278 Ans. The underwriters paid the whole of their share of the loss themselves.

4th ques. What was it that Mr. Gerson paid, if anything, and how does it appear that he paid it?

Ans. The gross sum paid by the Corn Exch. Ins. Co. was $14,764 83. The amount paid by companies was $14,080. The difference $684 83 was paid by Mr. Gerson to the Corn Exchange Ins. Co.

5th ques. As refunding an over-payment by the company as the underwriters' proper proportion of the loss?

Ans. Yes.

Cross-examined:

1st ques. Is it not a fact that your only knowledge of the matters you have testified to on your redirect examination is derived from the books and papers of the Corn Exchange Ins. Co.?

Ans. Yes, sir; the books being in the hand-writing of Mr. W. H. Waisor, the then sec'y.

2nd ques. Do you not know whether the books of the company were at that time correctly kept?

Ans. I have not looked over them to see if they were kept properly.

279 3rd ques. Then you cannot swear that they were?

Ans. No, sir.

PETER TAIT.

PETER STARR,
J. W. HOWE,
Commissioners.

LOUIS STEIN, called as a witness on the part of Julius Gerson and sworn, testified as follows:

1st ques. What is your name and age?

Ans. My name is Louis Stein; I am sixty-one years old.

2nd ques. How would you describe yourself as to business or occupation?

Ans. I am a retired merchant.

3rd ques. Do you know Julius Gerson, Joel Slaughter; and did you know Henry B. Slaughter in his lifetime?

Ans. I know Julius Gerson; I have seen Joel and Henry B. Slaughter, without being particularly acquainted with them.

4th ques. Have you had any business relations with either of them; if so, what, with which, and between what years?

Ans. I have had business relations with Julius Gerson. He was my partner from May, 1852, to May, 1860. I then retired from business.

5th ques. Since your retirement from business have you had
280 office desk-room any where; if so, where, at whose place of business, and during what period?

Ans. I had always permission, from Mr. Gerson, to use one his desks for my private writing when I required it. I have done so during the whole time since my retirement from business.

6th. ques. What was the character of the business carried on by yourself and Mr. Gerson, as partners, during the period of your partnership, and what has been his own business, I mean the general character of it, since your retirement?

Ans. The importation of dry-goods. Mr. Gerson has continued the same business.

7th ques. So far as you know what has been the extent of Mr. Gerson's ownership of steamboats?

Ans. He owned the Minna, formerly the George Law—the only one he owned to my knowledge.

8th ques. Do you know of his having had any steamboat dealings as to any other steamboat or water craft of any kind?

Ans. I do not.

9th ques. Were you present at any interview between Mr. Gerson, Joel Slaughter, Henry B. Slaughter, and Jeremiah Counsellor, at Mr. Gerson's place of business in the city of New York, at which there were negotiations about the sale of the Minna by Mr. Gerson to Henry B. Slaughter?

Ans. I was.

281 10th ques. Were you present, at the interview between the above parties upon the occasion, when the sum of fifty dollars was paid by Mr. Slaughter, and a receipt given for it by Mr. Gerson?

Ans. I recollect the payment of the fifty dollars, but have no distinct recollection about the receipt.

11th ques. At what period of the interview was the fifty dollars paid?

Ans. As near as I recollect it was near the end of the interview.

12th ques. Upon whose proposition was this fifty dollars paid?

Ans. I think Mr. Gerson's.

13th ques. How long was the time occupied by this interview, according to your judgment?

Ans. From one to two hours, I should think. I wish to remark that I didn't pay much attention to the thing because it didn't interest me; I was a stranger to it.

14th ques. Did anything occur during this interview to excite your attention particularly; if so, what was it, and why was your attention excited, and at what time of the interview did it take place?

Ans. My attention was excited by a remark of Gerson, on account of showing a very honorable trait in his character. This remark was to Mr. Henry B. Slaughter, as near as I can possibly recollect, in the
282 following words, but certainly to the same purport. He (Mr. Gerson) said: "Mr. Slaughter, before we go on any further, you must tell me candidly what use you are going to make of this boat. If you have any intention to use her for the benefit of the rebels, or to

aid in the rebellion, you cannot have her for any price." This was shortly before the payment of the fifty dollars.

15th ques. Did Mr. Henry B. Slaughter make a reply to Mr. Gerson's remark, which you have just given; if so, did you pay particular attention to the reply, and what was it?

Ans. I remember distinctly that Mr. Slaughter answered: "Mr. Gerson, we are loyal people, and want her for carrying fruit and passengers between Baltimore and some place on Chesapeake Bay, which I don't recollect.

16th ques. Had you heard anything previous to this between the parties as to the route of the boat?

Ans. Not to my recollection.

17th ques. Had you noticed the general tenor and burden of the conversation at the said interview previous to the incident you have mentioned?

Ans. I don't recollect any details, but the general impression made upon me, by the conversation of the parties, is that Mr. Slaughter wanted a fast boat to beat the competition.

283 (Mr. Spaulding moves to strike out all of the last answer after the word details as not being responsive and not being evidence.)

18th ques. Have you general recollection as to the tenor of what passed between the parties at this interview besides your recollection of the incident you have mentioned?

Ans. Yes, sir.

19th ques. Please state what your such general recollection is as to the tenor of what passed between the parties at this interview besides the particular incident you have mentioned?

Ans. My general recollection is that Mr. Slaughter wanted a fast boat to beat off a competition.

20th ques. How was the conversation carried on at this interview in this respect; whether it was principally conducted between any particular individuals of the party, and whether there were any principal speakers among them or the reverse; and whether any of them were comparatively silent, and which, if any?

Ans. To the best of my recollection it was principally carried on between Mr. Gerson and Henry B. Slaughter. I don't recollect anything about any silent parties.

284 21st ques. Were your relations with Mr. Gerson such on the score of intimacy or friendship, that, if Mr. Slaughter had exhibited such doubt of Mr. Gerson's veracity as would be implied in calling upon him to reiterate his statements about the boat, that your attention would have been excited by it?

(Objected to by Mr. Spaulding.)

Ans. I have not the least doubt it would have excited my attention on account of our friendship.

22nd ques. State whether or not you heard, during the said interview, any reiterated assertions about any quality of the boat. If you did, what were they, and what called them out?

Ans. My general recollection is, that Mr. Gerson stated she was a cheap boat, and *filled* up as good as new, but I can't call to mind any other remarks.

23rd ques. Can you call to mind any reiterations, by Mr. Gerson, of his own statements, about the boat?

Ans. I cannot.

24th ques. Do you know whether or not, about the time of this interview, Mr. Gerson had other prospects in view for the boat than selling

her to Mr. Slaughter? If yea, state all you know about this and the grounds of your knowledge.

Ans. I recollect Mr. Gerson mentioning to me that the Government wanted to buy her—the Government agent.

285 25th ques. Were you present at an interview between Mr. Gerson, the Slaughters, and Mr. Counsellor, when Mr. Richardson was also present and drew up the papers for the sale of the Minna?

Ans. I was.

26th ques. Describe that interview from the beginning to the end of it, and state what happened, in the order of occurrences?

Ans. I was sitting at my desk, attending to my private business, and did not pay any attention to this meeting up to the time when Mr. Gerson requested me to give up the desk to Mr. Richardson, who had just come in with Mr. Counsellor—the latter introducing him as a gentleman whom he had called to make out the necessary papers for the sale of the Minna. Mr. Slaughter and Mr. Gerson explained to Mr. Richardson the details of the transaction, when it was found necessary to send out for some blanks for the bill of sale and the mortgages. I don't recollect whether the porter of Mr. Gerson or his book-keeper went to the stationer, whom Mr. Gerson regularly employs, to Park Place near Broadway, and bought those blanks. When those blanks were brought Mr. Richardson sat down to make out the papers, and making several mistakes had to lay aside several blanks and repeat it. Mr. Slaughter, Mr. Gerson, and the other parties left the office and

286 went to the adjoining part of the store where Mr. Slaughter counted out some money to Mr. Gerson, and I heard the remark of Mr. Gerson, that the Baltimore money, which Mr. Slaughter had brought, could not be used here but at a discount, and why he didn't bring on greenbacks. Mr. Slaughter said he might have done it just as well if he had known it. Mr. Gerson sent out with that Baltimore money to an exchange broker to have it converted into current funds, which resulted in a loss of about eighty dollars or over. Mr. Gerson applied to Mr. Slaughter to make up the difference, which he was very unwilling to do as he thought it was not his fault to bring the wrong money. After some controversy, Mr. Gerson said he won't let this trifle stand in the way, and I will take the amount to settle up. The papers were signed after that by Mr. Slaughter and Mr. Gerson, and the stamps, that were found necessary to be put on, were to be procured. Mr. Gerson asked Mr. Slaughter for the amount to get these stamps; the amount of which I don't recollect, and, in accordance with my best recollection, Mr. Gerson went himself to get the stamps which were put on on his return. This is all I can call to mind just now.

287 27th ques. After this interview, which you have just described, did you see anything more of the Slaughters, or either of them in company with Mr. Gerson in connection with the Minna?

Ans. I saw Joel Slaughter calling on Mr. Gerson.

28th ques. Please describe the circumstances of the call, where it was, and what transpired.

(Objected to.)

Ans. Mr. Joel Slaughter called at the office of Mr. Gerson to bid him good bye, intending, as he said, to sail that day with the Minna for Baltimore. He desired Mr. Gerson to give him yet for the boat a few settees or chairs which Mr. Gerson didn't wish to do, but being very hard pressed by Joel Slaughter, Mr. Gerson said: "I will give you fifty dollars, and you may get those things yourself; is that satisfactory?"

Joel Slaughter said it was, and remarked that after having sailed on the boat now for several days, he was very much pleased. That is all that transpired at that meeting, because I recollect it distinctly, except that Mr. Slaughter discussed his arrangements for his passage.

29th ques. Were you present at any other interview between Mr. Gerson, Mr. Counsellor, and the Slaughters about the sale of the Minna, except the two principal interviews to which your examination thus far has related?

Ans. I was.

288 30th ques. Do you recollect where such other interviews, at which you was present, took place; and if so, where?

Ans. At Mr. Gerson's office.

31st ques. At any interview when Mr. Gerson, the two Slaughters, and Mr. Counsellor were all present at Mr. Gerson's office, do you recollect distinctly whether or not the draft of the boat was spoken of? If you do so recollect, state what was said about it, and by whom.

Ans. I recollect a remark of Mr. Gerson's that Capt. Crawford had told him that the draft of the Minna was three feet six inches, and Captain Crawford was a reliable man.

32nd ques. To whom did Mr. Gerson make this remark?

Ans. I can't designate any person. It was made in general conversation.

33rd ques. In whose presence and hearing did Mr. Gerson make this remark, and in what tone of voice, so as to enable us to get at the fact whether or not the remark was likely to have been heard by those present?

Ans. In the regular conversation tone without any particular emphasis. I have no distinct recollection who all were present, but Mr. Henry B. Slaughter and Mr. Counsellor, I know, were present. I am not positive about the others.

289 34th ques. You say that Mr. Henry B. Slaughter and Mr. Counsellor were present, but you have not stated distinctly whether or not the remark was so made as to be within their hearing. Please state positively, if you can, in whose hearing the remark was made, and your grounds for stating that it was made within such hearing.

Ans. It was made within the hearing of the whole party in the office, because they were all nearer to Mr. Gerson than I was, and I heard it.

35th ques. Had or had not the bill of sale been signed by the parties when this remark was made?

Ans. It was not signed.

This witness was not cross-examined.

LOUIS STEIN.

PETER STARR,
J. W. HOWE,
Commissioner's.

DECEMBER 18TH, 1866.

JOHN H. GOLDING recalled on behalf of Julius Gerson:

(Mr. Spaulding objects to this witness being recalled for further examination as to any matter as to which he has been examined or might have been examined at the time his examination was previously taken.

Counsel for Mr. Gerson states that he does not propose to ex-

290 amine the witness as to any such matters, but merely in reference to facts that have transpired since his former examination, and in the progress of these suits.

To which proposed examination Mr. Slaughter's counsel objects.)

1st ques. Were you present at the sale of the Minna, otherwise called George Law, at Baltimore, at public auction, in March last?

Ans. I was not.

2nd ques. Do you know the date on which her sale was advertised to take place; if so, what was the date?

Ans. March 20th, 1866.

3rd ques. Did you, at any short time prior to that date, examine the said vessel at Baltimore; if so, how long before?

Ans. I did; on Monday, March 19th, 1866.

4th ques. Describe her condition and appearance.

Ans. The condition of the boiler and engine was good. The boiler was repaired at Baltimore by Charles Reeder; the steam-chimney was new-lined and part of one of the connections of said boiler; the appearance of the hull the day prior to the sale was a very dilapidated appearance; the port guard was very much broken, and the hull seemed not to have seen paint since she left New York; the carpets and furniture of
291 the saloons were very much out of repair, caused, as I supposed, from leakage of water from the decks; the forward deck was very filthy from fish-scales and other refuse matter; her smoke-pipe was red with rust for want of paint; and she had the appearance of a boat that was neglected for years for want of care.

5th ques. How about her paint otherwise than her hull?

Ans. Her appearance inside was the same as outside.

6th ques. Her joiner work?

Ans. It was somewhat damaged; to what extent I cannot say.

7th ques. You did not state at what time she was repaired by Mr. Reeder, as you have described, and whether you were present. Please state how this was, and where the repairs were made.

Ans. She was repaired in February, 1865. I was present four days. I stopped, slept, and *eat* on the George Law while these repairs were under way. The repairs were done at Mr. Reeder's shop, Federal Hill, Baltimore.

8th ques. Did you discover, as a practical engineer, what was the cause of the boiler having to be repaired at that time; if so, what was it?

Ans. I did. The cause of the lining of the chimney having to
292 be renewed, as well as the connection, was that part of the boiler which the water did not cover gave out sooner, for the reason that the heat from the fires is more severe on account of having nothing but the steam to keep the iron cool. This is the case in all boilers of that construction.

Cross-examination:

1st ques. To what extent was the port guard broken? Describe the break.

Ans. I cannot tell the exact extent. She looked as if she had collided with some other vessel or with the dock.

2nd ques. Why cannot you tell the extent? Did you not see the break you speak of?

Ans. I did, but did not measure it.

3rd ques. Was it wood or iron that you saw broken?

Ans. Wood.

4th ques. What part of the guard was so broken?

Ans. The plank-shear and the wearing piece forward of the port wheel.

5th ques. About what length of the plank-shear was broken?

Ans. I should judge from two to three feet.

6th ques. How much of the wearing piece was broken?

Ans. The same in length as the plank-shear.

293 7th ques. Were they broken entirely through, or otherwise?

Ans. I should judge they were from the position I had to examine from, but I would not be positive.

8th ques. What your position?

Ans. Standing by the port gangway on the forward deck looking over the rail.

9th ques. Could you from that position get a complete view of the fracture?

Ans. I could not.

10th ques. Are you a ship-carpenter, or have you been one?

Ans. No, sir.

11th ques. What other signs of dilapidation did you see?

Ans. The decks, I should judge, needed caulking from the appearance of the seams; her outward appearance generally was bad.

12th ques. Are you, or have you been, a ship-caulker?

Ans. No, sir.

13th ques. Are you, or have you been, a ship-painter?

Ans. No, sir.

14th ques. Do you know how much it would cost to thoroughly paint the Minna inside and out? if so, state.

Ans. From about $800 to $1,000.

15th ques. Do you know of any process, and if so, state what, and the cost or expense thereof, of removing the fish scales and other

294 similar filth you speak of from the Minna's decks?

Ans. The process would be some water and a broom, and the labor of two men for three hours. The expense would be about fifty cents.

16th ques. How did you happen to be present and sleeping on board the Minna at the time the repairs were made by Mr. Reeder?

Ans. I was agent for selling patent grate bars—the same as the Minna had in her furnaces. I went on board the Minna to see how the bars had worn since they had been put in, before I introduced them on other vessels. I was invited by Mr. Anderson, mate of the Minna, to stay with him on board the vessel so as to save hotel expenses.

17th ques. How do you get at the sum of $800 to $1,000 as the cost of painting the boat; from any knowledge on the subject or from mere estimation?

Ans. From having seen bills for painting on other boats.

Redirect examination:

1st ques. How often is it customary to repaint steamboats like the Minna, they being used in running?

(Objected to.)

295 Ans. Once in twelve months.

2nd ques. How often is it customary to overhaul and repair them, they being used in running?

(Objected to.)

Ans. Once in twelve months.

Recross-examination:

1st recross ques. Did you go to Baltimore on the 19th March last for the purpose of making an examination of this boat?

Ans. I did.

2nd recross-ques. At whose request, or in whose employ, did you so go and make such examination?

Ans. At the request of and in the employ of Mr. Julius Gerson.

3rd recross-ques. Who, if any one, went with you?

Ans. Captain John Crawford; he to make an examination of the hull, and I of the boiler and engine.

4th recross-ques. What is your business, profession, or occupation?

Ans. That of chief engineer of the steamer William Harrison, now lying at Jersey City, and my general business is that of a chief engineer, and has been since 1857.

JOHN H. GOLDING.

PETER STARR,
J. W. HOWE,
Commissioners.

296 Captain JOHN CRAWFORD recalled as a witness for Julius Gerson:

(The same proposals and objections as to the examination of this witness are made as were made in the case of the recall of the witness John H. Golding.)

1st ques. Did you examine the Minna, otherwise George Law, at Baltimore, on the 19th of March, 1866?

Ans. I did.

2nd ques. Please describe her, and relate, as fully as occurs to you, the result of such examination.

Ans. I found the boat in a very dilapidated state. She was very filthy; had never been cleaned since she came off the route. I found the hull of the boat considerably cut by ice. The metal was cut off in several places from the hull. Her port guard between the forward gangway and the wheel had been stove in by a hard blow against the dock, I should think, from the looks of it. Her joiners' work was broken in in several places. The furniture of the boat, carpets in the upper and lower saloons, by a leakage from the decks above, were completely ruined; likewise the cushions on the seats in the upper saloon. The
297 furniture, what there was of it, was, you may say, good for nothing. Her window curtains were badly torn, and some of them gone. As regards the paint of the boat, I don't think she had had any put on her since she left New York. Her anchors and one chain were there. She had one boat on board of her. She had two when she left New York. Her decks had been very badly taken care of. They had been knocked to pieces by freight. This is about all I have to say about it.

3rd ques. How often is it customary to paint and refit steamboats in service?

Ans. At least once a year, thoroughly.

Cross-examined by Mr. Spaulding:

1st ques. At whose suggestion and upon whose employment did you make the examination of the steamboat of which you have spoken?

Ans. Mr. Gerson's.

2nd ques. Did you made a memorandum in writing of her condition at or about the time of the examination?

Ans. My son was with me. He did. I did not.

3rd ques. At whose request did your son make the memorandum of which you have spoken?

Ans. At my request.

4th ques. Did he so make it under direction?

Ans. He did.

5th ques. What has become of said memorandum; do you know where the same now is?

298 Ans. I do not. I presume he has got it.

6th ques. When did you last see it?

Ans. I don't think I have seen it in three months.

7th ques. In whose possession was it when you last saw it?

Ans. In my son's possession.

8th ques. Where does he now reside?

Ans. In Keyport, New Jersey.

9th ques. Did or not the memorandum made up by him, as you have stated, contain a complete statement of the then condition of the boat?

Ans. Yes, sir.

10th ques. Have you a copy of that memorandum?

Ans. I have not.

11th ques. In stating, as you did on your direct examination, the condition of the boat on the 19th of March, did you speak from your own recollection of what the memorandum contained, or independent of it?

Ans. The condition of the boat is as fresh in my memory to-day as on the day I examined her.

12th ques. The 11th question repeated.

Ans. Independently of what the memorandum contained.

299 13th ques. Can you swear that the memorandum did, as a matter of fact, contain a true description of the then condition of the boat?

Ans. I can and do so swear.

14th ques. You have stated that the condition of the boat is as fresh in your memory to-day as the day you examined her, and have also stated that her joiner-work was broken in several places, and that her window curtains were badly torn, and some of them gone; now please state what part of her joiner-work was broken, and in what place, and what window curtains were badly torn, an' how torn, and what ones were missing?

Ans. There were two places on the starboard side broken in, and I think there were three on her port side. I think there were about three windows in the upper saloon where the curtains were gone, making six curtains. I don't recollect on which side they were, whether port or starboard. There were several of the curtains that were torn down lengthwise. That is about all. In the lower or ladies' saloon, I think the curtains were all there.

15th ques. When the memorandum was made up, did you know exactly how many curtains were missing, and from what windows?

300 Ans. I know how many were missing, but not the windows, from the fact that they were all alike.

16th ques. Did you count the window curtains?

Ans. I did.

17th ques. How many were there?

Ans. The witness says: "I did not understand your question. I counted the windows from which the curtains were missing.

18th ques. From how many windows were the curtains missing?

Ans. Three.

19th ques. Did you count the curtains that were torn?

Ans. I did not.

20th ques. How, then, are you able to state how many of the curtains were torn?

(Objected to, on the ground that the witness has not assumed to state how many were torn.)

Ans. I cannot state positively.

21st ques. Did you know at the time of the examination how many were torn?

Ans. I don't think I did.

22nd ques. Then, what do you mean by saying that some of the curtains were torn; Do you mean that more than one was torn, as you have described?

Ans. I mean that more than one was torn.

23rd ques. How many more than one?

301 Ans. I am not able to say. I should think I should not be out of the way in saying that half of them were torn—some slightly and some badly.

24th ques. At the time of the examination could you have told how many of the curtains were thus damaged, and to what extent?

Ans. At the time of the examination I went on board of the vessel. I was surprised to see how bad her condition was. I didn't think that the whole furniture she had on board of her would bring twenty-five dollars. I don't think I could have told how many curtains were torn fifteen minutes afterwards, or at the time. I didn't count them.

25th ques. Does the memorandum of which you have spoken contain a statement as to how many curtains were torn and how torn?

Ans. No, sir.

26th ques. Does it contain a statement as to how many were missing?

Ans. I think it does.

27th ques. And you are positive that the curtains of three windows were gone?

Ans. Not all from three windows, but from four different ones, making three altogether.

28th ques. Do you know or not whether the portions of the curtains missing were not on the boat?

Ans. I do not. I had no access to the closet where bedclothes and things are locked up.

302 29th ques. Then, from anything you know to the contrary, the missing curtains may have locked up in the closet?

Ans. They may have been. I should think not, however.

30th ques. What makes you think not?

Ans. Only from the condition of the curtains. They would not be worth saving.

31st ques. In saying they were not worth saving, do you allude to those that were missing, or those which you saw?

Ans. I judge from those I saw.

32nd ques. That those missing were not worth saving?

Ans. Yes, sir.

33rd ques. How long had those curtains been in use on the boat?

Ans. I can't say.

34th ques. How long had you known the boat before her sale to Mr. Slaughter?

Ans. Since she was built. She was about twelve years old, I think, when he bought her.

35th ques. Was she furnished as soon as built?

Ans. Not as she was when she was sold to Mr. Slaughter.

36th ques. When was she furnished as she was when she was sold to Mr. Slaughter?

Ans. She was refurnished in part by Mr. Gerson the year previous.

303 37th ques. Did the curtains constitute a part of the furniture put into her by Mr. Gerson?

Ans. They did.

38th ques. Were they new when they were put in?

Ans. They were.

39th ques. What other new furniture was put in by Mr. Gerson?

Ans. Carpets in both upper and lower saloons.

40th ques. When were those put in?

Ans. In August (or July rather) of the year previous to her sale to Mr. Slaughter.

41st ques. Was any other furniture put in by Mr. Gerson, except what you have mentioned?

Ans. I can't say as to that.

42nd ques. What else did *he* furniture consist of except the carpets and window curtains?

Ans. Cushions, chairs, settees, two large rocking chairs and stools, some cane-bottom, and some entirely wood. There was a small stationary table in her after cabin.

43rd ques. Were all these articles of furniture in her when she was sold to Mr. Slaughter?

Ans. They were.

44th ques. Do you know how long the furniture, except carpets and window curtains, had been in use before the sale to Slaughter? and if so, state.

Ans. I don't know.

45th. Can you state about what time?

304 Ans. Some part of it had been in her since she was first built.

46th ques. What part?

Ans. There might have been a few of the stools and some of the chairs; I can't say how many. There is always something to be added every year to a steamboat in the way of furniture.

47th ques. Why?

Ans. It is liable to get broken; such portions of the furniture as stools will get broken and thrown overboard by passengers, and perhaps by deck hands.

48th ques. Had you sailed this vessel?

Ans. I had.

49th ques. How long before her sale to Mr. Slaughter?

Ans. Two years before Mr. Gerson owned her, and up to the time Mr. Slaughter bought her. I should have stated that I left her a year before Mr. Gerson bought her, and didn't go on her again till about three months after he bought her.

50th ques. How long did Mr. Gerson own her?

Ans. About fourteen months; I am not positive.

51st ques. When you first sailed the vessel how much of the furniture you have described was in her?

Ans. Perhaps half of the movable furniture.

52nd ques. Were the cushions in her then?

Ans. They were not; there were cushions in her, but not that kind.

305 53rd ques. When were the cushions put in her, that you have spoken , as having seen on your examination of the boat in Baltimore?

Ans. Between the time that Mr. Gerson bought the boat and the time that I took her to sail for him.

54th ques. Then these cushions had seen about fourteen months' use before the sale of the boat to Mr. Slaughter?

Ans. I should think they had seen about ten months.

55th ques. How much service had the settees seen?

Ans. Some had been twelve years in service, and some perhaps one—perhaps not so long.

56th ques. Were the large rocking chairs old or new at the time of the sale to Slaughter?

Ans. They were in her at that time; how old they were I can't say.

57th ques. In saying that you did not consider that the furniture of the boat would bring twenty-five dollars at the time you made the examination, did you include all the furniture you have specified, and did you wish to be understood as meaning that you did not consider it as worth more than that sum, or what did you mean?

306 Ans. I meant by my answer that all the furniture that was on board of her at the time I made the examination, except the anchor, chain, and life boat, would not bring over twenty-five dollars at auction.

58th ques. Did you consider them worth more than that?

Ans. They wouldn't be worth more than that to me.

59th ques. State what condition the cushions were in at the time of the examination.

Ans. They were blackened by soft coal dust; greased in several spots by—as I thought from the looks of them—by the firemen making a bed of them.

60th ques. What condition were the two large rocking chairs in?

Ans. I only saw one on board of her; it was a cane-bottom one with the cane partly cut out.

61st ques. What about the settees?

Ans. There were only three that I could see anywhere about; one of them was in pretty good condition, the others were very bad from exposure to the weather.

62nd ques. You did not see, then, when you made the examination, all the furniture that was in her at the time Gerson sold her to Slaughter?

Ans. Not one-half of the movable furniture.

307 63rd ques. Your twenty-five dollars estimate of what the furniture would bring at auction includes only that portion of it which you saw?

Ans. Yes, sir.

64th ques. You stated, on your direct examination, that the boat was in a very dilapidated state; state fully what you mean by that expression?

Ans. I mean that the boat was in as bad condition as she possibly could be without being torn all to pieces. Her general appearance was like any old house or carriage, or anything of that kind, with windows broken out and curtains torn.

65th ques. Is that all you mean by the term "dilapidated?"

Ans. I don't know what else I could say. I ain't very learned to know more definite than that.

66th ques. What did you mean by saying on your direct examination that she was very filthy?

Ans. She was filthy from carrying dirty freight, such as fish and cattle, and had not been cleaned off. She had burnt Cumberland coal and that had been allowed to lay around deck and been carried through by people's feet, from one part of the boat to the other, through the saloons, and tracked into the carpet, all through; it was impossible to

tell what color the carpet had been. The paint was smoked up with the coal, all through the inside of the boat—the upper saloon as well as below.

308 67th ques. Was that all you mean by filthy condition?

Ans. I don't know what else I could say. She didn't look as if she had been cleaned in a month.

68th ques. You stated, on your direct examination, that you found the hull of the boat considerably cut with ice. Now please state the precise nature and extent of these injuries; describe them, and where located, fully.

Ans. Between the stem and the wheel, on both sides. I should judge it was done by loading the boat down, allowing the ice to get on top of the metal, that having a tendency to put the metal off and allowing the ice to get hold of the wood or plank. I should judge from the looks of it, it cut in from a quarter to a half an inch.

69th ques. You stated, on your direct examination, that the metal was cut off from several places on the hull; please state from what places the metal was so cut off, and the extent thereof.

Ans. It was cut off by the ice, as I have described it, between the stem and the wheel. Perhaps it would take half a dozen sheets of metal to repair it, of the ordinary size—say four feet by fourteen inches.

70th ques. Did these injuries extend on both sides, from the stem to the wheels, or were they only at points between?

309 Ans. They were only at different places.

71st ques. How many different places?

Ans. I am not able to say.

72nd ques. Then how are you able to state, as you did on your direct examination, that the condition of the boat is as fresh in your memory to-day as it was the day you examined her?

Ans. I charged my memory particularly about it.

73rd ques. Did you charge your memory particularly with the injuries to the hull, of which you have just spoken?

Ans. I did.

74th ques. And yet, can't tell in how many different places the hull was injured?

Ans. My reason for that is, I had no means of getting down alongside of the boat to examine her thoroughly, in how many places; there was no small boat or float *state* that I could get anywhere around there, except launching her boat.

75th ques. The 74th question repeated.

Ans. I cannot tell in how many places she was injured.

76th ques. Could you tell the exact nature and real extent of the injuries to the hull which you have mentioned, without getting down alongside of the boat and examining them particularly?

310 (Objected to, on the ground that the witness has not professed to give the exact nature or extent of the injuries referred to, but only his judgment from where he stood, whereas the question assumes that he has sworn to the exact nature and extent.)

Ans. I could not, from the very reasons stated to you before.

77th ques. Then you do not know the exact nature and real extent of the said injuries?

Ans. I know the nature of them, but not the extent.

78th ques. Would the extent of the said injuries have any bearing upon the value of the vessel?

Ans. It would have a tendency to make the vessel look bad.

79th ques. Is that the only effect?

Ans. A vessel cut with the ice certainly would not be worth as much as one entirely smooth. It could never be made to look as well without taking out a piece of plank.

80th ques. How much would that cost?

Ans. The plank might be six feet long, and might be twenty. I am not able to say how much would have to be taken out, and can't say how much it would cost.

81st ques. Could these injuries be repaired by taking out a piece of plank?

Ans. They could.

82nd ques. If a twenty-foot plank was used, how much would it cost?

311 Ans. In New York about twenty dollars.

83rd ques. How much for a six-foot?

Ans. In that proportion.

84th ques. In your judgment, what length of plank was necessary on this boat?

Ans. I can't say as to that.

85th ques. Have you an opinion?

Ans. I should think in all in different places it would take as much as twenty feet in length.

86th ques. You stated, on your direct examination, that her port guard, between the forward gangway and wheel, had been stove in by a hard blow against the dock. State how you know the cause of this injury, and describe it fully.

Ans. I can only judge from looks. I was not there when it was done. It was mashed in by a blow against the dock, or by coming in contact with some other vessel. That is as fully as I can describe it.

87th ques. Was there a hole in the vessel where the injury had been received?

Ans. The injured parts were there, hanging loosely.

88th ques. Describe the port guard, and particularly how the injury affected it.

Ans. The port guard is the port side of the vessel; the left-hand side as you face the stem. The port guard is formed by a projection
312 of beams extending out five or six feet from the hull, and forming part of the deck. Those beams extend clear across the vessel. They are then cut off to form the guard in a true curve, and covered outside by a facing piece. A plank-shear lies on the top of that; a lining underneath, and a wearing piece outside of that. The wearing piece was broken through, also a portion of the plank-shear. That is as far I can go, for it is impossible for me to tell whether the facing piece was broken, or any of the deck beams.

89th ques. Could this injury have been repaired?

Ans. It could.

90th ques. If only the wearing piece and a portion of the plank-shear to which you have referred was injured, what would have been the expense of repairing them?

Ans. Probably twenty-five dollars.

91st ques. You stated, on your direct examination, that the joiner work was broken in several places. Please state in what places, and to what extent.

Ans. On both sides, between the forward and after gangway. I should think to the extent of about fifty dollars; I can't say exactly. It is impossible for anyone to tell, on such a job as that, the exact amount that it would cost.

Redirect examination:

313 1st. ques. With reference to the fact that this boat, at the time of your examination of her in Baltimore, was advertised to be sold the next day at auction, how, in your opinion as a steamboatman, would steamboatmen speak of her condition; and how would you, as a steamboatman, speak of the same in general terms?

Ans. I should think she was laid up to make her show to very bad advantage.

2nd ques. Would or would not a person of ordinary care and prudence present a boat for sale in that condition—of cou'se I ask you as a matter of opinion—unless he had some interest in her bringing less than her value?

Ans. A steamboatman or company who would expose a boat for sale at public auction would have her put in the best possible condition before the day of sale, unless he had some object in view.

3rd ques. In the sale of a steamboat at public auction, how is the price she brings affected by her appearance as distinguished from her actual value, notwithstanding her appearance?

Ans. That would depend altogether upon who or what class of men bought or wanted to buy. A steamboatman would know about
314 what it would cost to put her in order. It would look, to a man who didn't understand it, that it would cost a great deal more than it actually would.

4th ques. What effect, then, would that have upon competition in bidding?

Ans. The parties who knew nothing about it, and expected to buy a nice looking steamboat, wouldn't be very apt to bid much, if any.

5th ques. How about the knowing ones?

Ans. They would most likely want to buy cheap.

Recross examination:

1st ques. Is there any custom, as a matter of fact, in regard to the painting of steamboats; in other words, do steamboatmen paint their steamboats every year when they are running, whether they happen to require it or not?

Ans. Every steamboatman owning a steamboat, if he studies his own interest, will overhaul and paint it once a year. It is the custom to do so.

2nd ques. What do you mean by overhauling?

Ans. Repairing the engine, boiler, joiner-work, and painting.

315 3rd ques. Would you overhaul a steamboat in the sense in which you have used the term, at any time, if neither the engine, boiler, or joiner-work or painting needed repairs?

Ans. They necessarily want overhauling once a year. A man who would not overhaul his steamboats would not study his own interest.

4th ques. The 3rd question repeated.

Ans. They would need repairs.

5th ques. The 3rd ques. repeated.

Ans. I would not overhaul the boat if it did not need it.

6th ques. And whether a steamboat should be overhauled, in the sense of your using the term, yearly, depends upon her condition, does it not?

Ans. Yes; it does.

7th ques. Then the failure of a steamboatman to observe the custom of annually overhauling his boat would be no injury to his boat in the event that her condition did not require it?

Ans. If she did not require it it would be no injury to her.

8th ques. Then all that you meant by saying that there was a custom about such matters was, that steamboats in use generally require overhauling annually, and that men who studied their own interests annually made such repairs upon them as might be necessary?

316 Ans. It became a custom from necessity; that is what I meant by it.

9th ques. Have you ever attended a public sale of a steamboat, held under the order of court?

Ans. I have, several years ago.

10th ques. What was the condition of the boat then sold?

Ans. It was a boat partly burnt, in law between two parties. I don't recollect any other judicial sale.

11th ques. Did or not Mr. Gerson tell you, when you went to examine this boat, that he had an interest in her, and that she was to be sold at public auction?

Ans. He did.

12th ques. Did be tell you when she was to be sold?

Ans. He told me one day too soon. He told me it was on the 19th, whereas it was on the 20th.

13th ques. How long was this before you went over to Baltimore to examine her?

Ans. It was on the 16th or 17th of March, 1866.

14th ques. Did he then, for the first time, employ you to go over to make the examination?

Ans. He sent for me to come to his office. When I go' there he said the George Law was to be sold in Baltimore on the 19th of the month, and wished me to go on to make the examination. That was the first of his employing me.

317 15th ques. Did he or not request you to make as bad a report of the condition as it was possible for you to do?

Ans. He did not. He wished me to make a true statement of her condition—an impartial statement, I might say.

16th ques. Did he or not request you, in the event you found anything amiss with regard to the vessel, to see that it was righted?

Ans. He did not.

17th ques. And said nothing about your making repairs or cleaning the vessel, so that she would present a decent appearance on the day of sale?

Ans. Nothing in regard to her, whatever.

JOHN CRAWFORD.

PETER STARR,
J. W. HOWE,
Commissioners.

JULIUS GERSON, called to prove the loss of some papers, and being duly sworn, testified as follows:

1st ques. Do you recollect, some weeks ago, at your counting-rooom, presenting to B. W. Huntington, esq., of counsel in this case, some receipted bills for repairs on the Minna?

(Objected to by counsel for Mr. Slaughter. Question withdrawn.)

1st ques. Have you made any search for some accounts that
318 were examined at your counting-room a few weeks ago by Mr. Huntington, your counsel in this case, and Mr. Stein; if so, what accounts were they, and in whose possession were they up to the time when said examination was had?

(Counsel for Joel Slaughter, executor, objects to any testimony by this witness, he being a party to the action.)

Ans. I have made that search, and have caused search to be made by those employed by me. They were accounts referring to the repairs to the steamboat Minna, and they were all receipted as paid. They were in my possession, among my regular business papers.

2nd ques. State whether or not they were all bona fide accounts, and whether or not they had all been paid.

(Objected to as to form.)

Ans. They were, and had all been paid.

3rd ques. What has been the result of the search spoken of?

Ans. They have not been found.

4th ques. What became of them after the examination spoken of, or a part of them?

Ans. Mr. Huntington carried them off with him.

JULIUS GERSON.

PETER STARR,
J. W. HOWE,
Commissioners.

319 BACKUS W. HUNTINGTON, called as a witness for Julius Gerson, and sworn, testified as follows:

After the conclusion of the examinations of the witnesses to the amount of the repairs in this case—I mean the witnesses Theall, Silkworth, Tait, and Lawson, I called at Mr. Gerson's counting-room to examine his file of bills on hand for repairs on the Minna. He produced quite a number of bills all receipted. I selected from them such as I thought were properly bills for the repairs spoken of, there being other bills which were not for repairs, but for supplies and the like. I read over to Mr. Stein the amounts of the bills that I selected, and he, on my reading, took down amounts and footed them up. I had not the footing of the repairs already testified to with me at the time, but I assumed and stated that we had proved repairs to over twenty-one thousand dollars. The object of my reading the amounts to (objection to object) Mr. Stein was that he might foot them up and we would see whether the repairs so receipted for, when added to the twenty-one thousand dollars already proved, would come up to twenty-six thousand dollars, which last amount Mr. Gerson was charged to have given as the amount of
320 repairs on the boat, exclusive of the boiler. The amounts I read to Mr. Stein being reported by him (object to report) to foot up when added to the $21,000 to over $26,000, I remarked that I would (object to remark) sift them, and I suppose I took them away for that purpose. I have searched carefully at my office and residence for them and cannot find them. They are, in my opinion, lost or mislaid. I have also looked carefully in Mr. Gerson's counting-room in the appropriate boxes for the same and could not find them. The accounts referred to were all receipted and appeared to be genuine. Their amount as read to me by Mr. Stein (objected to) was over five thousand dollars. I did not pay particular attention to how much was over, because I intended to examine them again and get the amount of such as I might conclude to put in proof in this case. None of the accounts referred to were, in my judgment, included within the repairs already proved. I was (object to witnesses' judgment) particular about this, and a principal reason I had for wanting to sift them again was to be sure upon comparison with the accounts already proved, that there should be no doubling of accounts. The bill for the boiler was left out and all Cobank's and

Theall's bill, and all bills rendered by Silkworth in his own name,
321 but I thought it possible that some of the bills might be by workmen whom Silkworth had employed and whose bills had been included in his account. It was therefore necessary for me to examine and sift the accounts, and I intended to do so.

(All testimony after the words "I was particular" objected to.)

Their loss was discovered by me on my having occasion to look for them for this purpose.

Cross-examination:

1st ques. Do you now remember distinctly, or at the time you made the examination of the bills you have referred to at Mr. Gerson's counting-room when Mr. Stein was present, did you have clearly in your mind all that Lawson, Theall, Tait, and Silkworth had previously sworn to in regard to the bills for repair on the boat?

Ans. No.

2nd ques. Did you have with you at that time the testimony of those witnesses as taken before the commissioners or your minutes of the same?

Ans. Neither.

3rd ques. Can you state with certainty the amounts and character of the bills receipted that you put aside as being part and parcel of the $21,000 already proven and the respective amounts and character
322 of the bills receipted that you read off to Mr. Stein?

Ans. No.

4th. Can you state with certainty by whom all these different bills so receipted purported on their face to be rendered?

Ans. No.

5th ques. Do you know the signatures to any of the receipted bills to be genuine?

Ans. No.

B. W. HUNTINGTON.

PETER STARR,
J. W. HOWE,
Commissioners.

LOUIS STEIN recalled for Mr. Gerson.

1st ques. Have you been present and heard the testimony of Mr. Gerson and Mr. Huntington just given?

Ans. Yes.

2nd ques. Did you foot up the amounts read off to you by Mr. Huntington on the examination of the Minna accounts referred to by him?

Ans. I did.

3rd ques. When the result of that footing up was added to $21,000 can you state about what the total amounted to?

(Objected to.)

Ans. Over twenty-seven thousand dollars.

4th ques. What became of the receipted bills so footed up?

323 Ans. Mr. Huntington took them along.

5th ques. What were the accounts?

Ans. Receipted bills for repairs on the Minna, which Mr. Huntington picked out as belonging to this case.

6th ques. Did you aid Mr. Huntington in making this selection; and if so, do recollect any point of special care governing the selection; and if so, what was it?

Ans. I aided him and he specially looked at the dates of the bills

that they should not be of a date prior to a certain date, and also that they should'nt be such names whose bills had been already proven as he explained this to me.

(Objected to.)

7th ques. Subsequent to the assumed date of what event were the amounts selected as being?

(Objected to.)

Ans. Subsequent to the date of the disaster she had at Harlem which occasioned her heavy repairs.

LOUIS STEIN.

PETER STARR,
J. W. HOWE,
Commissioners.

FEBRUARY 20TH, 1867—1 p. m.

JEREMIAH COUNSELLOR recalled by counsel for Mr. Slaughter, not generally, but for the purpose of rebutting the testimony of John
324 Crawford and William H. Hazard as to the interview between Mr. Slaughter and Mr. Gerson on the occasion of their first visiting the boat together.

1st ques. You have read the testimony of John Crawford and William H. Hazard in regard to an interview between Slaughter and Mr. Gerson, when Mr. Slaughter first went on board the boat for the purpose of making an examination of her. Were you present at that interview as stated by both Crawford and Hazard?

Ans. Yes, sir.

2nd ques. Did you hear the conversation that took place between Capt. Crawford and Mr. Slaughter, I mean Henry B. Slaughter, and the conversation that took place at that interview between Joel Slaughter and Capt. Crawford?

Ans. I did.

3rd ques. I mean that part of the conversation in which the draft of the boat was spoken of?

Ans. Yes.

4th ques. Please state what was said by either Joel Slaughter, Henry B. Slaughter, or Capt. Crawford on that subject at that time?

Ans. Mr. Slaughter and son, both of them, wished to know the exact draft of the boat. Mr. Gerson referred them to Capt. Crawford,
325 and said he could tell them whether the boat drew more than three and a half feet or not. Capt. Crawford said that was the draft of the boat.

5th ques. At that interview was there anything said by Capt. Crawford or either of the Slaughters about the draft of the vessel light, and her draft loaded; and if so, what was it?

(Objected to by Mr. Gerson's counsel as leading and suggestive.)

Ans. I don't recollect that there was.

6th ques. At that interview did Capt. Crawford tell Henry B. Slaughter that the vessel drew 3½ feet of water on each end, and that he, Capt. Crawford, thought she drew four feet amidships?

(Objected to as leading.)

Ans. There was nothing said about the four feet. He showed him the end of the ship, the copper I think, where he had measured her, which showed where the water come.

7th ques. At that interview did Henry B. Slaughter and Joel, or either of them, ask Capt. Crawford how much water she would draw loaded?

Ans. I don't recollect that there was anything said about that.

8th ques. Did Capt. Crawford, at that interview, say to either of the Slaughters that he might load the boat down to six feet if he put
326 heavy freight on her, or anything to that effect?

(Objected to as leading.)

Ans. He did not.

9th ques. At that interview did Capt. Crawford say that he did'nt think he had ever had her to draw over five feet with all he had ever carried on her, or anything to that effect?

(Objected to as leading,)

Ans. He did not.

10th ques. At that interview did Mr. Gerson ask Capt. Crawford if the boat would draw more than four *four*, or anything to that effect?

(Objected to as leading.)

Ans. He did not.

11th ques. At that interview did Capt. Crawford say that he did'nt think she would draw more than that—meaning four feet—nor hardly that, or anything to that effect?

(Objected to as leading.)

Ans. He did not.

12th ques. Did Capt. Crawford, at that interview, appeal to one of the men who had just come out of the fire-room and ask him any question in regard to the draft of the boat?

(Objected to.)

Ans. I don't remember his doing so about the draft. He asked
327 the man about the boiler and engine.

13th ques. At that interview did Mr. Gerson say that if she drew more than four feet he would give them the boat for $1,000, or anything to that effect?

(Objected to.)

Ans. He said if she drew more than 3½ feet he would give them the boat for $1,000. Nothing was said about four feet.

Cross-examined:

1st ques. How did you get to the steamboat on the occasion of this interview?

Ans. I think we went in a carriage. I am not positive.

2nd ques. What was the route you took—I mean where did you start from, and did you go directly from there to the boat?

Ans. I don't know whether we went from the Merchants' Hotel or Mr. Gerson's store. I am not positive. On one occasion we had a carriage I recollect. It was a rainy day.

3rd ques. Did you have a carriage on more than one occasion?

Ans. I don't remember that we did. We might have had.

4th ques. What company was in the carriage?

Ans. I think there was three of us. I forget whether Mr. Haz-
328 ard was in or not. There might have been four.

5th ques. Name them.

Ans. Henry B. Slaughter, Mr. Gerson, and myself.

6th ques. Have you named all? If not, please finish.

Ans. Mr. Hazard might have been in. I am not positive. He would have made four.

7th ques. How did you happen to meet on this occasion?

Ans. Mr. Slaughter and I took a carriage and went to Mr. Gerson's, I think. From there we went to find Mr. Hazard over to his place of business. I am not positive whether we went to Mr. Gerson's or Mr. Hazard's first. I know I had Mr. Gerson's card, or his address.

8th ques. Complete your description of what you did?

Ans. I think we went down to the boat where she lay. I forget the dock now. It was near Barclay street.

9th ques. Where did you pick up Mr. Hazard?

Ans. We found him at his place of business.

10th ques. Where were you and Mr. Slaughter when you and he took the carriage?

Ans. Foot of Courtland street, at the railroad depot.

11th ques. Had Mr. Slaughter just arrived?

Ans. Yes.

12th ques. Who were with him?

329 Ans. His son and myself.

13th ques. Where did his son go while you and Mr. Slaughter went off in a carriage?

Ans. I don't remember whether he went to the boat, or went with us to Mr. Hazard's. I can't recollect.

14th ques. Did you see the carriage paid for?

Ans. I don't recollect who paid for the hack.

15th ques. Had Mr. Slaughter just come on from Baltimore, and arrived at the depot when you met him?

Ans. He came the night before, and staid all night at my house in Newark, New Jersey.

16th ques. Was Mr. Robinson along with him and you?

Ans. I don't think he was with us in the carriage. He came to Mr. Slaughter's at one of those interviews; I forget which, and staid all night at my house.

17th ques. Did he stay all night at your house more than once?

Ans. I am not certain. He might have staid there more than once.

18th ques. In this interview on the boat did Henry B. Slaughter, Joel Slaughter, and you keep close together all the time?

Ans. We were not far apart—within speaking distance.

330 19th ques. Did you go below deck with Henry B. Slaughter?

Ans. I did.

20th ques. Where was Joel then?

Ans. He was below—down in the vessel. I know there was a little ladder we had to go down, and I was pretty lame. Mr. Slaughter said if he could get down there I ought to. He wanted to see all there was to be seen.

21st ques. Did this little ladder lead down to the cabin?

Ans. It lead down to the hole of the boat under deck. I think the cabin is on deck.

22nd ques. Was there not a cabin under deck?

Ans. I am not certain.

23rd ques. Where were you when Capt. Crawford showed Mr. Slaughter the copper on the stern of the boat?

Ans. I think we were standing on the dock.

24th ques. May not Capt. Crawford have said something to either Henry B. Slaughter or Joel Slaughter during the course of this interview that you did not hear?

Ans. I think not about the draft of the boat.

25th ques. Have you at any time had a conversation between yourself and Capt. Crawford alone about this transaction?

(Objected to by counsel for Mr. Slaughter. Question withdrawn.)

26th ques. Was Joel Slaughter present, and within hearing of

331 everything that passed between H. B. Slaughter and Capt. Crawford, or between H. B. Slaughter and Mr. Gerson upon the occasion referred to?

Ans. I think he was.

27th ques. Did you all go together up into the pilot-house?

Ans. I don't remember any of us going there?

J. COUNSELLOR.

PETER STARR,
J. W. HOWE,
Commissioners.

JOHN H. GOLDING recalled as a witness for Julius Gerson.

(Counsel for Mr. Slaughter objects that this witness has twice been called and examined-in-chief, and his testimony exhausted.)

1st ques. Please state how the matter was as to H. B. Slaughter and Joel Slaughter and Mr. Counsellor keeping within hearing distance of each other at the first interview on the steamboat?

Ans. At the first interview on the steamboat H. B. Slaughter, Joel Slaughter, Mr. Counsellor, and a gentleman whose name was unknown to me, but who was a ship-carpenter, one Mr. Anderson, and
332 James Brannan came on board to look at the boat in regard to her condition and motive power. My first conversation was with H. B. Slaughter and James Brannan, Mr. Slaughter (H. B.) representing the purchasing party, and Mr. Brannan, his engineer. H. B. Slaughter requested Mr. Brannan to look at the machinery with my permission. Mr. Brannan remained with me while Mr. Slaughter joined the rest of the party. I cannot say whether Counsellor, H. B. Slaughter, and Joel Slaughter were within hearing distance of each other during the whole of the interview or not.

2nd ques. State whether or not Counsellor was in the engine-room with H. B. Slaughter on this occasion?

Ans. He was not.

3rd ques. State what the little ladder led down to referred to by Mr. Counsellor.

Ans. To the fire-room; an iron ladder.

4th ques. Did H. B. Slaughter and Mr. Counsellor go down this ladder upon that occasion?

Ans. Mr. Slaughter went down with me. Mr. Counsellor remained on deck, saying it was of no use, as he could not tell anything about the boiler.

5th ques. About how long did you and Mr. H. B. Slaughter remain together below when you and he so went down?

Ans. No more than five minutes.

333 6th ques. Where was Brannan then?

Ans. We left him standing in the engine-room.

7th ques. Where was Joel Slaughter?

Ans. I don't know.

8th ques. Was he or not down with you?

Ans. He was not, to my recollection.

9th ques. Was there any going up into the pilot-house; if so, who went up?

Ans. There was. H. B. Slaughter, I think, with Capt. Crawford and Mr. Gerson.

10th ques. Where was Joel Slaughter then, and where was Counsellor?

Ans. I don't know.

11th ques. Are you able to state positively whether either of them went or not into the pilot-house at the time you speak of? If you are, state how the matter was.

Ans. I think I can state positively that Mr. Joel Slaughter and Mr. Counsellor did not accompany them into the pilot-house at that time.

12th ques. About how long did H. B. Slaughter, Capt. Crawford, and Mr. Gerson remain in the pilot-house at that time?

Ans. From 10 to 15 minutes.

13th ques. Did you observe their positions? If so, describe them.

Ans. I did. Their positions were such as gentlemen would have been in in conversation.

334 Cross-examined:

1st ques. What circumstance has fixed in your memory so that you are able to speak of it without any doubt or equivocation, the fact that H. B. Slaughter, Mr. Gerson, and Captain Crawford went together and alone into the pilot-house on the occasion referred to, and there remain, for the space of ten minutes?

Ans. At the time of my introduction to the parties referred, I was preparing to pack a valve stem on the upper steam chest. The door leading to the place where I wished to work led from the upper saloon. After I had got through with Mr. Slaughter in the fire-room, I told Mr. Brannan that I had a little job to attend to in the way of packing, and if he would excuse me I would be down in the course of 10 or 15 minutes. From the upper saloon there was a door leading forward out on deck to the pilot-house. While I stood there I saw those parties in the pilot-house. When I got through, which occupied about 10 minutes, I saw the parties coming out of the pilot-house.

2nd ques. How far, or at what distance, from the pilot-house did you do this job of packing?

335 Ans. From 25 to 30 feet.

JOHN H. GOLDING.

PETER STARR,
J. W. HOWE,
Commissioners.

WILLIAM H. HAZARD recalled for Julius Gerson, (under same objection.)

1st ques. Please state how the matter was as to H. B. Slaughter and Joel Slaughter and Mr. Counsellor keeping within hearing distance of each other at the first interview on the steamboat, as to which Mr. Counsellor has just testified in your hearing?

Ans. Mr. H. B. Slaughter, Mr. Joel Slaughter, and Mr. Robinson, the carpenter, were away from the rest of the party at that interview; one instance, in particular: Mr. H. B. Slaughter went down into the fire-room, and the rest of the party remained on deck.

2nd ques. Where was Counsellor, if you know?

Ans. On deck, standing by the passage way, on the forward part of the deck.

3rd ques. Tell us about the carriage from your office to the steamboat, referred to by Mr. Counsellor?

Ans. I left my office, and went up to Mr. Gerson's, and he sent out and got a carriage. We started, Mr. Gerson and myself inside,
336 from his store in Park Place, and went direct to my office, in Front street. There H. B. Slaughter, Mr Joel Slaughter, Mr. Robinson, Mr. Counsellor, and Mr. Gerson got inside the carriage, and I sat outside with the driver, and went to the boat, foot of Robinson street; the carriage standing in West street while we went on the boat.

WILLIAM HENRY HAZARD, JR.

This commission is here closed.

PETER STARR,
J. W. HOWE,
Commissioners.

And afterwards, to wit, on the 28th day of May, in the year last aforesaid, the commission to Frederick Pinkney, return, and testimony were filed in court here, to wit:

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

To Frederick Pinkney, esq., greeting:

{ THE SEAL OF THE CIRCUIT COURT MARYLAND. } Be it known that you are appointed a commissioner to examine evidences in a cause now depending in the circuit court of the United States for the fourth circuit in and for the Maryland district, between Julius Gerson, complainant, and Joel C.
337 Slaughter, administrator of Henry B. Slaughter, respondent, and Joel C. Slaughter, administrator of Henry B. Slaughter, complainant, and Julius Gerson, respondent.

Therefore you are requested, having first taken the oath hereunto annexed, and also administered the annexed oath to the person whom you shall appoint as clerk to attend the execution of this commission, that, at such time and place as to you shall seem convenient, you cause to come before you all such evidences as shall be named or produced to you by either the complainant or respondent, and that you examine them upon their corporal oaths, to be by you administered upon the Holy Evangely of Almighty God, touching their knowledge or remembrance of anything that may relate to the cause aforesaid; and having reduced the depositions of the witnesses so taken by you into writing, you send the same, with this commission, closed, under your hand and seal, to the said circuit court, with all convenient speed.

Witness the Honorable S. P. Chase, Chief Justice of our Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and sixty-six.

Issued the 18th of March, A. D. 1867.

JAMES W. CHEW,
338 *Clerk Circuit Court.*

R. C. BARRY,
T. P. SCOTT,
Esquires for Complainant.
W'M. SCHLEY, *Esquire for Respondent.*

Commissioner's oath.

You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties, take the examination and depositions of all and every witness and witnesses produced and examined by virtue of the commission hereunto annexed. So help you, God.

Sworn before , April 9th, 1868.

W. ROBINSON, *J. P.*

Clerk's oath.

You shall truly, faithfully, and without partiality to any or either of the parties in this cause, take, write down, and transcribe the depositions of all and every the witness and witnesses produced before, and examined by, the commissioner named in the commission hereunto annexed, as far forth as you are directed and employed by the said commissioner to take, write down, and transcribe the said depositions or any of them. So help me, God.

339 The above clerk's oath was by me duly administered to W'm S. Pinkney, by me appointed clerk to attend the execution of this commission.

FREDERICK PINKNEY,
Comm'r.

The execution of this commission appears by certain schedules hereunto annexed.

FREDERICK PINKNEY,
Commissioner.

In the circuit court of the United States for the fourth circuit in and for the district of Maryland.

JULIUS GERSON, COMPLAINANT,
vs.
JOEL C. SLAUGHTER, ADMINISTRATOR OF Henry B. Slaughter, respondent.

JOEL C. SLAUGHTER, ADMINISTRATOR OF Henry B. Slaughter, complainant,
vs.
JULIUS GERSON, RESPONDENT.

At the execution of the annexed commission, issued out of the circuit court of the United States for the fourth circuit in and for the Maryland district, and to me directed, empowering me to examine in the above-entitled case, I, Frederick Pinkney, the commissioner in the said commission named, having first duly taken the oath to the said commis-
340 sion annexed, met on the ninth day of April, in the year of our Lord eighteen hundred and sixty-eight, at the office of William Schley, esquire, in the city of Baltimore, and State of Maryland, and assigned the fourteenth day of April, in the same year, at eleven in the forenoon, and the same place, as time and place for the examination of evidences under the said commission, at which last-mentioned time and place the commission met, pursuant to notice, and I proceeded, in the presence of the solicitors of the respective parties, to take the following depositions, that is to say:

CHARLES REEDER, a witness of lawful age, produced on behalf of Joel C. Slaughter, being by me first duly sworn on the Holy Evangely of Almighty God, being examined on the following interrogatories to him propounded in that behalf, makes oath, deposeth, and saith as follows, that is to say:

1st int. State your residence and occupation?

Ans. I am a steam-engine builder and machinist, and live in the city of Baltimore.

2nd int. State, if you please, how long you have so been engaged in business, and also what opportunities you have had to become practically acquainted with the condition of steamboats and steamboat machinery.

341 Ans. I have been engaged in that business over 30 years, in the city of Baltimore, and my business has been principally building and repairing steamboat engines.

3rd int. Have you any knowledge of a steamboat called the George Law, and sometimes called the Minna; and, if yea, the time when you first knew said steamboat, and under what circumstances you acquired such knowledge?

Ans. I first knew the vessel in May, 1864. I was then called on by the owner at that time, Mr. Henry B. Slaughter, to do some repairs on her.

4th int. Now state, if you please, whether, when so called on, you made any, and, if any, what examination of said steamboat; and also state in what condition you found the engine, boiler, and other machinery of said steamboat?

Ans. There was not much examination made at that time; the repairs made were not important. In October, 1864, I made considerable repairs on the boiler, furnished a new smoke-stack, and made some repairs on her engine. In January, February, and March, 1865, I found it necessary to take out the steam-chimney from the boiler, it being worn out and unfit for further use. The boiler was thoroughly examined at that time, and such repairs were made on different parts as were

342 found to be necessary. The shell of the boiler had the appearance of having been surrounded by fire, or having been in a vessel or building that had been burnt.

5th int. From the appearance of the boiler are you able to say whether it was a new boiler or not?

Ans. I should judge that it was about four or five years old; the condition of the steam-chimney indicated at least four years' use.

6th int. State, if you please, whether, if such repairs as were actually made had not been made to the engine and boiler, the machinery of the steamer would have been fit for use and safe to be employed in a steamer carrying passengers and freight.

Ans. I think it would not.

7th int. Were the repairs that were actually made made merely by directions of the owner, or were they, in your judgment, proper and necessary?

Ans. The owner gave me discretion, and nothing more was done than was absolutely necessary.

8th int. After such repairs had been made, was the boiler, thus repaired, as good as a new one?

Ans. It was not.

9th int. Are you able to state the cost of the repairs of which you have spoken—I mean repairs to the engine and boiler?

Ans. From May, 1864, to October, 1865, the repairs amounted to 4,700 dollars.

343 10th int. If the boiler had been new in April, 1864, or at any period within a few months preceding May, 1864, could the boiler have presented the appearance of which you have spoken, when seen by you at the several times you have mentioned?

Ans. It is impossible for a new boiler to have that appearance.

11th int. Are you able to say what was the comparative value of the boiler of which you have spoken, in comparison with a new boiler, properly made, of the same size, in April, 1864?

Ans. The comparative value would be less than one-half of the value of a new boiler.

Cross-examined for Julius Gerson:

1st cross-int. Please to bring your mind to bear upon the comparative value of old and new boilers, of which you have just been speaking, and the criteria of the market value of boilers generally, and state whether boilers are contracted for and sold by weight, or by weight and dimensions, and what is taken into consideration in estimating the value of boilers?

Ans. Boilers are both sold by weight and by gross value, that is, the boiler put in complete into the vessel. A boiler prepared for sale
344 as a second-hand boiler is always in serviceable order, and the value is rated to about the time it will last serviceably; but all second-hand boilers require more or less repairs, which is a consideration that reduces their value. The George Law's boiler, after being repaired, is in that condition which you consider a second-hand boiler.

2nd cross-int. After the repairs, amounting to 4,700 dollars, had been put upon the engine and the boiler, what was the market value of the boiler?

Ans. A new boiler, at that time, would have cost 9 or 10,000 dollars; the old boiler was worth about 4 or 5,000 dollars.

3rd cross-int. What proportion of the cost of repairs, or about what proportion was applicable to the boiler as distinguished from the engine? State whether or no you have data for answering this question exactly, and what?

Ans. The amount, I think, was about two-thirds of the whole bill. I have not the data with me, but the items could be specially stated from my books. The above is a fair approximation. The repairs ran from May, 1864, to October, 1865, including both months. A large portion of such repairs are not permanent repairs, but are generally made while the vessel is running.

345 4th cross-int. Might not neglect, or want of skill in the management of the steamboat fires, produce the appearance of the boiler which you have described?

Ans. It is not possible for the fires in the furnace of the steamboat to produce that appearance.

5th cross-int. Do you mean to say that if the supply of water in the boiler is deficient, and the fires in the furnace are kept up freely, the iron of the boiler would not be burnt?

Ans. I do not mean that; in that case the arches would become corrugated in the same manner that the shell of the boiler is corrugated where the fire of the furnace never come in contact with it, and cannot have any effect to produce the appearance which the shell of the boiler presents. I am speaking of this boiler as it was when I saw it.

6th cross-int. Please state the exact time when you made that examination of the boiler, which disclosed the burnt appearance you have described?

Ans. It was the time when the steam chimney was put up, which, I think, was in January, 1865; I cannot give the date more precisely; she was under repair from January to March, 1865; the boiler was open and exposed at that time.

7th cross-int. Were any of your repairs to the boiler caused by the

burnt appearance you have described? If so, to what part, and at what cost?

346 Ans. There were no repairs required or made to that part.

8th cross-int. What was the defect in the steam chimney, on account of which you had to put in a new one? And do you know, and if so, please state, how that defect was caused?

Ans. I have stated before that the chimney was worn out; it had become so thin that it could not be safely repaired.

9th cross-int. What was the specific cost, or about what, of taking out the old steam-chimney and putting in the new one?

Ans. About 2,000 dollars, I think.

10th cross-int. What do you give as the period when the new steam-chimney was put up?

Ans. It was completed in March, 1865.

Again examined for Joel C. Slaughter:

12th int. You spoke, in your cross-examination of the appearance of the boiler after it was uncovered and disclosed; I wish you now to state how, previous to that time, it had been covered, and whether, whilst so covered, it was or was not practicable to make as thorough and satisfactory an examination of its condition?

Ans. The boiler was enclosed by what is called a boiler-deck; at the time the steam-chimney was put in, that deck was removed, and this enabled an examination to be made, which previous to that time

347 was not practicable.

13th int. Are you able to state the number of days the said steamer, whilst undergoing the repairs of which you have spoken, was drawn off the route?

Ans. I cannot say with certainty about the number. It is not usual for these boats to run in January, February, and March.

JAMES BRANNAN, a witness of lawful age, produced on behalf of Joel C. Slaughter, being by me first duly sworn on the Holy Evangely of Almighty God, being examined on the following interrogatories to him propounded in that behalf, makes oath, deposeth, and saith as follows, that is to say:

1st int. State your residence and occupation?

Ans. I reside in the city of Baltimore, and am an engineer.

2nd int. Do you know the steamer George Law, sometimes called the Minna, and if yea, how long have you known said steamer?

Ans. I have known her since 1864, in April of that year, I think.

3rd int. Where did you first see said steamer?

Ans. In New York.

4th int. Under what circumstances?

Ans. I went on there after her at the instance of the then owner, Mr. Henry B. Slaughter.

348 5th int. State whether, on that occasion, you made any examination of said steamer, or of any part thereof?

Ans. I made an examination of what they call the steam-chest, and found that it leaked some, but made no further examination, as she was represented to be all right.

6th int. Who was with you at the time you first saw said steamer?

Ans. Captain Joel C. Slaughter, son of Henry B. Slaughter; Captain Thomas M. Robinson, Thomas Reeves, of Baltimore, who went on with me; Geo. Anderson, who was a white hand who went on to navigate the steamer; and Mr. Henry B Slaughter?

7th int. Did you at that time, make any examination of the condition of the boiler?

Ans. I saw it was not a new boiler. I looked inside of the smoke-box, and found it was not what it was represented to be—a new boiler. When we had got the vessel to Baltimore—I, having come round in her—I opened the boiler and found a great number of small shells, such as muscle-shells, sticking to the boiler; I came to the conclusion, that the boiler had been in a boat which had caught fire and sunk with the said boiler.

8th int. What connexion had you thenceforth with said steamer, after she had been brought to Baltimore?

349 Ans. I was engineer of her, sir; and have so continued to the present time.

9th int. You will please state whether, at any time, while you were acting as engineer on board said steamer, you permitted the water to become so low as to be insufficient?

Ans. I always kept plenty of water.

10th int. I now wish you to state, fully and particularly, all you may know in relation to said boiler, the repairs made of the same, and the condition of said boiler, from the time you took charge as engineer, up to the time she was sold under order of the court?

Ans. In the first place, her steam-machinery was gone, or in other words, useless and worn out. She had to have a new smoke-stack, and a good deal of repairs to the boiler, which I cannot describe exactly, but it was a constant series of repairs all the time, or nearly so.

11th int. Were you ever present at any interview between Henry B. Slaughter and Julius Gerson?

Ans. I heard them speaking on the wharf in New York, something in reference to the draught of water; Mr. Gerson, if my memory serves me right, said that if she drew more than three and a half feet of water, or three feet, I forget which, he, Henry B. Slaughter, could have her, I think, for 1,000 dollars.

350 12th int. Are you able to give the precise date when you heard this conversation? If you cannot state the day of the month, then state how long it was before said steamer left the port of New York for Baltimore.

Ans. That I am unable to answer, for I did not keep any account of it.

13th int. How many days were you detained in New York, before you started on your voyage to Baltimore?

Ans. Well, I never kept any memorandum of that, as it was unimportant to me, as I thought.

14th int. Was any measurement made, whilst in New York, for the purpose of ascertaining the draft of water of said steamer?

Ans. I believe there was, in my presence, forward and aft.

15th int. By whom was it made, and what was announced as the result?

Ans. I think that Captain Robinson attempted to measure her in the two places specified, but whether he got the correct measurement or not, I don't know. I think the measurement was announced, but am not sure, as it did not come under my notice as engineer.

16th int. Are you able to state the expense, and if you cannot state it precisely, then state what, in your opinion, was the expense of bringing said steamer from New York to Baltimore, embracing in your

351 estimate, the expense of yourself and others who went on to

bring her to Baltimore, the wages of those employed in that duty, and other incidental expenses.

Ans. It must have been near 400 dollars.

17th int. State, if you can, when said steamer was first placed on the route between Baltimore and Chester River?

Ans. I think it was in the month of April, 1864, if I do not mistake; it was soon after she came on.

18th int. Were you on board on the occasion of her first trip? and if you were, then state whether or not any difficulty occurred in the voyage; and if so, what, and the cause of that difficulty?

Ans. I do not remember whether it was the first trip or not, as I have forgotten now; but with the draught of water she would have gone into one of our creeks, called Queenstown; I mean the draught she was represented to draw; in consequence of her drawing more water she would seldom go up to the landing or wharf, whichever you choose to call it, and we were compelled to land the passengers and freight at the mouth of the creek, about a mile probably from the landing.

19th int. At the time of which you speak, was the vessel heavily laden, or otherwise?

352 Ans. She had a very few passengers, and very little freight.

20th int. Was this the only instance of interruption of this kind, or how otherwise?

Ans. I meant in former answer to say that it was a general thing, unless it was a very high tide.

21st int. Are you able to say from actual knowledge, how many feet of water said steamer, with an ordinary cargo of passengers and freight, actually draws?

Ans. I could not say.

22nd int. Was Queenstown the only landing-place to which the steamer could not be taken?

Ans. We have frequently gotten aground on account of her draught of water, within about a mile of Crumpton, on Chester River, in Queen's Anne's County.

Cross-examined for Julius Gerson:

1st cross-int. How long have you been engaged as engineer in navigating the Chester River?

Ans. A little over eight years.

2nd cross-int. All that time on the Slaughter line of steamers?

Ans. All that time, sir.

3rd cross-int. What other steamers have composed, and now compose that line, besides the George Law?

353 Ans. The steamer Arrow was formerly one of the steamers; she was a high-pressure boat; and the steamer Chester, and the George Law; the Arrow has been taken off the line.

4th cross-int. Please describe any peculiarity you may know of in the construction of the hulls of the Arrow and the Chester, as distinguishing those vessels from the George Law, and other steam craft generally?

Ans. Well, the only peculiarity is that the George Law is what is termed a "timbered boat," and the Chester and the Arrow are termed "hooped boats."

5th cross-int. Now please describe what a "hooped boat" is?

Ans. Well, I am not much versed in the business. A "hooped boat" is a frame put together and iron bands going round the bottom, and to be fastened on top by bolts, running round the frame or planking, just like a half of a tub precisely.

6th cross-int. What is saved, as to the timbering and weight of a vessel, by building in this way?

Ans. I cannot say what is saved.

7th cross-int. I suppose you mean that you cannot say how much is saved?

Ans. That is what I mean, sir.

8th cross-int. I did not mean that; I meant is there not a saving as to the interior timbering, and as to the weight of such timbering, be the weight more or less?

354 Ans. There might be, but I don't know it; I have no practical knowledge on the subject.

9th cross-int. Did you go to New York about the George Law more than once? If so, how often, and with whom, and in whose employment?

Ans. I went but once, and it was in company with the parties I have already mentioned, and I was in the employ of Henry B. Slaughter.

10th cross-int. Did the George Law make a trial trip for the satisfaction of Henry B. Slaughter, while you were in New York as aforesaid; and if so, did you accompany her on that trip?

Ans. I don't remember any special trial trip, and don't think there was any; we were on her upon her route between New York and Perth Amboy; I mean the party that were with me in New York, and myself. If the boat had been bought at that time, she had not been delivered over; it strikes me that she was bought, but I am not sure of that.

11th cross-int. Did not you and the party with you stay on the boat all night, and was there not an examination of the machinery and working of the boat?

Ans. We staid on the boat all night after we got her, but I don't remember that we staid on her all night previous to that, and I do not think we did. I saw the engine in motion on the trip to Perth

355 Amboy. I not make any particular examination.

12th cross-int. Did you take any part, as an engineer, in the running of the boat on her said route?

Ans. I took no part.

13th cross-int. Did you mention the matter of the leaking of the steam-chest to anybody before leaving New York?

Ans. I asked the engineer who had charge of her, and he told me it was a very small matter; I don't remember mentioning it to anybody else.

14th cross-int. Did this engineer show you how he managed about this leaking? If so, describe it.

Ans. He had some rags stuck in the leak, that is all; I did not require much showing.

15th cross-int. That is the usual way of managing those leaks, is it not?

Ans. Sometimes—temporarily; there are different ways.

16th cross-int. About how many trips did you accompany the steamer on her route from New York to Perth Amboy?

Ans. May be two or three trips; more or less.

17th cross-int. Had you any share in the Slaughter line of steamers, and were you to have any share in the George Law?

Ans. No share. I had no interest in the line, and was to have none in the George Law.

18th cross-int. What persons were present at the conversation you have reported as having occurred between Mr. Henry B. Slaughter and Mr. Gerson on the wharf at New York?

356

Ans. I think that Mr. Henry B. Slaughter's son, Captain Joel C. Slaughter, was present, and I think Captain Robinson was, if my memory serves me right; there may have been others present, but I cannot particularize them.

The commission was then adjourned to the fifteenth day of April, in the same year, at eleven in the forenoon, and the same place; at which last-mentioned time and place the commission met, pursuant to notice, and I proceeded, in the presence of the solicitors of the respective parties, to take the following depositions, that is to say:

The said James Brannan desires to correct his preceding testimony as follows:

I wish to make the following corrections of my evidence yesterday. Captain Robinson was not in New York during the time I was there. I went on originally in company with Capt. Joel C. Slaughter, to look for a steamer. While in New York, seeing the advertisement of Mr. Hazard, we called on him, and he stated to us that he had for sale the steamer Minnie, which, he said, he thought would suit us; we went on board the boat for a moment or two, but made no examination. We
357 returned to Maryland, and reported to Mr. Henry B. Slaughter, all the information we had. Subsequently Henry B. Slaughter, Joel C. Slaughter and Captain Robinson went on to New York; I did not myself go on until several weeks thereafter, and after the two Slaughters had returned to Baltimore; but when I went on the two Slaughters also went on, as also did several hands go on to assist in bringing the vessel round to Baltimore; Captain Robinson did not go on upon that occasion.

Again cross-examined for Julius Gerson:

16th cross-int. At the time you went on first with Joel C. Slaughter, was there any pressing necessity for Mr. Henry B. Slaughter to get a new boat on his line without delay? If so, what was it?

Ans. Well, I suppose there was; the boat that he had, which was the Arrow, was too small and two slow. I know nothing about any opposition being expected.

20th cross-int. Did Mr. Hazard, before mentioning the Minnie, tell you of other boats he had for sale?

Ans. He mentioned two or three boats, or may be one or two.

21st cross-int. Was he not told that the boats he first mentioned would not answer.

Ans. The only boat we saw, that he mentioned, independent of the present boat, was a boat called the Meta; he mentioned some other
358 boat, but we did not find her. I do not remember that either Mr. Slaughter or I told him that the boats would not answer.

22nd cross-int. When you and Captain Joel C. Slaughter went on first, during that visit did you look around through New York for a boat that would suit?

Ans. We looked around, but the boats were mostly all too large or too small?

23rd cross-int. On this first visit, was Joel C. Slaughter, according to his own account, particularly pleased with the Minnie?

Ans. I think not, sir.

JOEL C. SLAUGHTER, of lawful age, appearing as a witness on his own behalf, being by me first duly sworn on the Holy Evangely of Almighty God, being examined on the following interrogatories to him propounded in that behalf, makes oath, deposeth and saith as follows, that is to say:

1st int. State your residence, and occupation?

Ans. I live in Kent County, Maryland; and am a farmer, and in the fruit-packing business, and in the steamboat business.

2nd int. Do you know the parties to these suits?

Ans. I am myself one of the parties, and am the son and administrator of Henry B. Slaughter; I know Mr. Gerson, the other party.

359 3d int. In March, 1864, or the latter part of February, did you visit New York on business; and if so, what business, for whom, and whom did you confer with in relation to the same?

Ans. I did visit New York in the latter part of February, or in the first of March, 1864, for the purpose of buying a steamboat, or rather to look for one to suit our line, or, rather, my father's line. Mr. Brannan and I went on together, and we first visited the Stamford, and consulted with the captain of the boat, who was also owner, or part owner; his boat did not suit my father's line, because she drew four feet of water, but the captain told us of a boat called the Meta; we looked for the Meta that day, but did not find her. We next visited Mr. W'm H. Hazard, whose advertisement we saw in the newspaper, and we saw him. We stated our business to Mr. Hazard, and he gave us the names and dimensions of three steamboats, or there may have been more; the Ocean Wave was the first one mentioned, for which he asked 45,000 dollars; he also named the Minnie, for which he asked 36,000 dollars, and stated, at the same time, that they were talking of putting a new boiler in her, and if they did, they should ask more for her. The other steamboat named by him was called the Metamora, for which he asked 40,000 dollars. He did not mention the Meta at this first

360 visit; Mr. Brannan was mistaken about that. We then visited the steamer Ocean Wave, but could not find any of the others that day. We returned to Mr. Hazard, and told him the Ocean Wave would not suit us; and I asked Mr. Hazard, in case none of his boats suited us, what he would charge for negotiating for any boat that he might find that would suit us. I told him of the steamer Meta, and on the next day we visited the wharves, saw the steamer, and we thought she suited our purpose very well, but the owner did not live in the city; we also saw the steamer Minnie, but did not think at the time of buying her. We then returned to Baltimore, and then to Crumpton, and reported to my father of the boats we had seen, and prices, and also gave him Mr. Hazard's address. It was then through correspondence between my father and Mr. Hazard, that he and I and Captain Robinson went on to see the Minnie, now called the George Law.

4th int. When you first saw Mr. Hazard, did you describe to him the kind or character of the boat you wanted, and the route on which you wished her to run? And if so, state what you said on that subject.

Ans. We told him that the boat must be of light draught, not over 40 feet wide, and ranging from 140 to 160 feet long, and must not be over 160 feet, and that we preferred one within those limits. I

361 mentioned the route on which we wished her to run, on which there was a creek, where we got at least one half of our passengers; I told him that, and that unless the boat could run in that creek she would not suit us. I don't remember any more about it; we were talking generally on steamboats; I am not positive that we named any draught at that time, but I think we named three and a-half feet as the limit to the depth of water; we refused the Stamford on that ground; she was a new boat, and offered to us for $50,000.

5th int. At this interview did Mr. Hazard make any statements; and if so, what, regarding the draft of the Minnie?

Ans. He referred to his memorandum book, and gave her dimensions and draught at the same time, as 150 feet long, the engine of seven and a half feet stroke, and 34 inches in diameter, and that she drew three and a half feet water, and would make 16 miles an hour; I think, but am not positive, that he gave her width or beam.

6th int. At this interview did Mr. Hazard say anything as to the person for whom he was acting in effecting a sale of the Minnie; and if so, what was it?

Ans. He said he had the boat for sale, but did not give us any of the names of the owners of any of the boats he had for sale.

362 7th int. On your return to Crumpton, did you or not report to your father the dimensions, draught, and price of the Minnie, as they had been stated to you by Mr. Hazard?

(Objected to as leading.)

Ans. I did.

8th int. On your return to Crumpton, what report, if any, did you make to your father as to what had occurred between you and Mr. Hazard at the interview of which you have spoken?

(Objected to.)

Ans. We gave him the name of each boat, the dimensions of each boat, and their draught of water, speed, and prices, as they were given to us by Mr. Hazard.

9th int. Did you subsequently visit New York on this business, and who accompanied you; and if so, state with whom you conferred in New York City, and when it was?

Ans. I did visit New York; I went alone; my father and Captain Robinson went the same evening to Newark, in New Jersey, and they met *met* me in New York, with Mr. Counsellor, of Newark, with them on the next morning; we took a carriage at the New York ferry—my father being lame—and went direct to Mr. Hazard's office, and we there saw him.

10th int. State fully what then and there occurred, and what was said.

(Objected to, unless Mr. Gerson was present.)

363 Ans. I don't remember any particular remarks made at that time, but Mr. Hazard went with us from his office to Mr. Gerson's office, which, I think, is No. 17 in Park Row, and we there saw Mr. Gerson.

11th int. State what occurred at Mr. Gerson's office.

Ans. Mr. Gerson stated that the boat would make 16 miles an hour, and he also gave the dimensions, as Mr. Hazard had done, of the boat and her draft of water, which he said was three and a half feet. Mr. Gerson also stated that the boat was going on a trip to Perth Amboy that afternoon, and asked us to take a trip down. I don't remember that anything more particular was said at that time. We then left for our hotel, after having accepted Mr. Gerson's invitation to go on that trip of the boat.

12th int. Did you actually make the trip on board the boat to Perth Amboy the same afternoon?

Ans. Mr. Gerson, Mr. Hazard, Mr. Counsellor, Captain Robinson, my father, and myself, went down the river in the boat, and they all landed at the first wharf on the Jersey side, except Captain Robinson and myself, and we two went on to Perth Amboy, and returned in the boat to New York the next morning.

13th. int. Did you have any conversation with Mr. Gerson in regard to the boat, either on going to her, or on board of her, on this occasion? If so, state the same.

364 Ans. I don't remember of anything particular at that time; we were pleased with the speed she made.

14th int. When did you next see Mr. Gerson, and where? And state any conversation between you and him regarding the boat, or any conversation with him at which you were present.

Ans. I think the next was on the wharf, after we had returned from Perth Amboy. Capt. Robinson examined the boat at that time, so far as boring her hull, to see if she was sound, and he pronounced her sound; and he and I came up out of the hold of the boat, and Capt. Robinson expressed an opinion to me, or I to him, I don't remember which, that the boat looked as if she drew more water than three and a half feet, and I said to Mr. Gerson, in presence of my father and Mr. Counsellor, and, I think, of Mr. Robinson also, that she looked to me as if she drew more than three and a half feet water; Mr. Gerson said that if she drew over three and a half feet water he would give her to him for 1,000 dollars. I do not remember that anything more particular was said on the subject, although this matter was spoken over several times in half an hour. While they were talking about it, Capt. Robinson attempted to measure her; I did not assist in measuring her, but I was present.

365 15th int. Describe the process and appliances used by Capt. Robinson in his attempt to measure her.

Ans. He took a boat hook and hooked it under her keel at her bows, and then measured up how far it had been wetted by the water, and it was not three and a half feet by a few inches; but I disremember the number of inches; he then measured her at the stern, in the same way, and it was three and a half feet; he could not measure anywhere else with the boat hook, and he had nothing else to do it with. Capt. Robinson had no assistance in the attempt to measure the boat, and did not require any.

16th int. Was this the only measurement, or attempted measurement of the boat made by Henry B. Slaughter, before his purchase, of which you have any knowledge?

Ans. It was.

17th int. At this interview on the dock with Mr. Gerson, did your father say anything to him regarding the draught of the vessel? and if so, state what it was.

(Objected to as leading.)

Ans. My father told Mr. Gerson that if she drew over three and a half feet she would not be of any use to him, and he did not want her at any price.

18th int. What, if any, reply did Mr. Gerson make to this remark?

366 Ans. He said that if she drew over that, he could have her for 1,000 dollars.

19th int. Did you know Capt. John Crawford, who was in charge of the vessel at the time you made the measurement of it?

Ans. I do.

20th int. And you saw him then and there, did you?

Ans. I did.

21st int. Did he, Capt. Crawford, tell you, at that time or any other, that the Minnie drew three and a half feet at each end, and that he thought she drew four feet amidships, with her coal and water, to make a round trip to Perth Amboy and back, or anything to that effect?

Ans. He did not. In all our conversations he always said that she did not draw over three and a half feet of water with her coal and water in the boiler on board.

(See answer to 43rd interrogatory.)

22nd int. Did he at that interview, or any other, tell you that the vessel might be loaded down to six feet if he put heavy freight on her, or even more than that, or anything to that effect?

Ans. He did not.

23rd int. Did you or not explain to him, on that occasion, the route on which the vessel was to run?

Ans. I did, sir.

367 24th int. After such explanation by you, did he tell you that you would necessarily be detained, and that the vessel would not go in three feet of water?

Ans. No, sir.

25th int. In connection with such explanation of the route, what statement, if any, did Capt. Crawford make regarding the draught of water of the vessel?

Ans. I don't remember of his making any.

26th int. At this interview or at any other, did you hear either Mr. Gerson or he state or express the opinion that the vessel drew four feet water amidships, with her coal and water to make a round trip to Amboy and back, or anything of that kind?

Ans. I did not.

27th int. At this interview, what, if anything, did Capt. Crawford say as to the possibility of measuring the vessel correctly as the weather then was?

Ans. I don't remember that he said anything.

28th int. Come down to your next interview with Mr. Gerson, and state where it was, who was present, and what occurred?

Ans. We all went up from the vessel to Gerson's office, and there my father agreed to take the boat at 40,000 dollars, paying 15,000 dollars cash—or within 30 days—and to give bonds for 25,000 dollars, secured by mortgage on the George Law and Chester; it was either notes

368 or bonds. They wanted some one to draw up the contract, and Mr. Counsellor proposed a friend of his, Mr. Richardson, who was also a notary public. There was considerable discussion about what kind of contract should be drawn, and how it should be drawn, and it was decided by all parties that paying 50 dollars on the boat, and a simple receipt for that, would bind both parties. I don't remember anything particular, only my father and, I think, Capt. Robinson and myself remarked that she might draw over three and a half feet water, and Mr. Gerson said that if she did he would give her to him for 1,000 dollars, as he had promised. The 50 dollars was paid, and the receipt for it taken. We then returned to Maryland.

29th int. When did you next see Mr. Gerson; where; who was present, and what took place?

Ans. I next saw him when we went after the Minnie. I don't remember whether I first saw him on the wharf or at his office; I am not positive. We met at Gerson's office during the day—that is to say, Mr. Gerson, Mr. Counsellor, my father, and myself. I don't think that anyone else was there; Mr. Hazard may have been present, and I now recollect that an elderly gentleman called Stein, Mr. Gerson's partner, was there. They sent for Mr. Richardson, who drew up the bond

369 or note, whichever it was, and the mortgages and bill of sale of the vessel, and the money, 15,000 dollars, was paid. There was something said about a discount on the Baltimore money, and a fifth or sixth of one per cent. was paid on that account. Mr. Gerson remarked, in the presence of all, that if she drew over three and a half feet water he would give her to us for 1,000 dollars, as he had promised.

30th int. In reply to what remark, and by whom made, was this said by Mr. Gerson?

Ans. In reply to a remark that my father made, that he feared she drew over three and a half feet water; my father seemed to fear that all the time.

(Objected to.)

The commission was then adjourned to the seventeenth day of April, in the same year, at eleven in the forenoon, and the same place; at which last-mentioned time and place the commission met pursuant to notice, and I proceeded in the presence of the solicitors of the respective parties to take the following depositions, that is to say:

The said Joel C. Slaughter, being examined on the following interrogatories to him propounded on his own behalf, makes oath, deposeth, and saith as follows, that is to say:

1st int. How long did your father remain in New York after
370 payment of the 15,000 dollars, of which you have spoken, before his return to Maryland?

Ans. I don't think it was over two days.

32nd int. How long did you remain there before you returned?

Ans. I think at least a week, but I disremember the particular number of days.

33rd int. During the time your father remained in New York, was there any statement made to him by Mr. Gerson, Mr. Hazard, Capt. Crawford, or any one else, in relation to the draft of water of the Minna, variant from the statement of which you have spoken, as having been made to him by Mr. Gerson?

Ans. Not to my knowledge.

34th int. During the time that you remained in New York on that occasion, was there any statement or representation made to you by Mr. Gerson, Mr. Hazard, or Capt. Crawford, variant from the statement which you have said was made by Mr. Gerson to your father, in relation to the draught of water of the Minna?

Ans. There was not.

35th int. When the contract was made, as you have said, at the time the 50 dollars was paid, what, if anything, was said in relation to the boiler of the Minna?

Ans. They said that thay had put a new boiler in, and asked
371 40,000 dollars for her, which was 4,000 dollars more than they had previously asked.

36th int. By whom was the statement made that a new boiler had been put in the boat?

Ans. I think first by Mr. William H. Hazard, and also by Mr. Gerson, afterwards.

37th int. Was any examination made of the boiler of the said boat at any time subsequent to the period when you and Mr. Brannan first saw her?

Ans. There was not; none till she was brought to Baltimore.

38th int. State, if you please, speaking for yourself, whether there was anything said subsequently to said statements of Mr. Hazard and Mr. Gerson that induced you to doubt whether a new boiler had been actually put in.

Ans. There was not.

39th int. Are you able to state, from actual knowledge, whether or not your father, at the time said statements were made, confided in said statements as true?

Ans. I am; because I heard him repeatedly say that he did.
(Objected to.)

40th int. State the time to which you refer when you heard your father say so; was it before or after the payment of the 15,000 dollars, and the execution of the note or bond and mortgages of which you have spoken?

372 (Objected to.)

Ans. It was both before and after that.

41st int. How did you return on that occasion from New York to Maryland?

Ans. I came back by sea, in the Minna.

42nd int. You were requested by me yesterday to form as just an estimate as may now be in your power of the actual expense incurred by your father in bringing round the Minna to Baltimore; if you have done so, please state the amount.

Ans. It was from 500 to 600 dollars; I could not tell the exact amount, but it was not less than 500 dollars.

43rd int. You have intimated to the commissioner a desire to add something to your answer to the 21st interrogatory; that interrogatory is now repeated, and you will please make any alteration or addition to said answer, which you may deem necessary to render the same an accurate answer to said interrogatory.

Ans. Capt. Crawford did not; he always said that she did not draw over three and a half feet water with her coal on board, water in the boiler, and her usual passengers and freight.

44th int. How soon after the arrival of the Minna at Baltimore was she placed in service; and on what route?

373 Ans. In about three days, I think, and on the route from Baltimore to Crumpton, on the Chester river.

45th int. Did you go in her on her first trip; and, if you did, in what capacity? and state whatever may have occurred in relation to her draft of water.

Ans. I did, and in the capacity of captain. We did not attempt to go into Queenstown Creek on the first day, as I wanted a full tide on her first trip.

46th int. Had you any experience in the navigation of steamers; and if yea, for what length of time?

Ans. I had. I was a licensed pilot, and had been steamboating four years, first as clerk, and then as captain or pilot; I went on board as clerk to study the business.

47th int. State on what route your service had been performed?

Ans. On the route from Baltimore to Crumpton, in my father's service.

48th int. State anything that occurred in any subsequent trip that enabled you to ascertain the draft of water of said steamer?

Ans. I don't remember the particular trip, but soon ascertained that we could not go into Queenstown Creek, except at full tides. I remember one trip that we grounded there, and it was the only one that we ever measured the depth of water; she was aground; Mr. Counsellor, and his friend Mr. Ogden, were on board, and it was by

374 their request that we measured. The shoalest place we could find was about five feet. We measured with a pole or oar, and ascertained the depth of water. The steamer Chester attempted to pull us off when she came by, but could not do it, and we laid there about four hours before the water rose high enough for us to get off. We were generally careful not to go in afterwards, except on very full tides.

49th int. State, if you please, in what manner the measurement of the depth of water was made on the occasion referred to in your last answer.

Ans. We lowered the small boat into the water, and measured the depth all around the boat with the oar, we passing around her; we could ascertain the depth by seeing how far the water wetted the oar.

50th int. How long before any alteration was made in the keel of said boat did you continue to act as her captain?

Ans. There never was any alteration made in her keel since we purchased her. I remained as her captain till the winter of 1864–'5, to the last of that winter, but I disremember the day and month when I left her.

51st int. From your knowledge of said route, and your knowledge of said boat—the latter acquired from your connection with her as
375 captain—are you able to express a reliable opinion as to whether said steamer was adapted for useful service on said route? And if yea, then express your opinion.

Ans. I think I am. She is not suitable for that route, as there is no certainty of her getting into Queenstown Creek, and the passengers generally dislike going out in small boats, it being sometimes quite rough from the wind.

52nd int. Was the landing at Queenstown Creek the only landing on the route that could not be reached, except at full tide?

Ans. She could reach all the other landings, except Crumpton, on the Chester River, and we grounded only a few times on the bar below Crumpton. The principal difficulty was at Queenstown Creek. A great many passengers left our line and travelled by other lines on account of this difficulty. There was so much complaint about it that another line was started, which goes within five miles of Queenstown, and I think it gets two-thirds of that trade, or at least one-half of it.

53rd int. After the Minna had been placed on the route to Chester River, and before she was sold by the receivers appointed in this case, were any repairs found necessary; and if so, what repairs, and the expenses incurred on account of such repairs? The enquiry refers
376 to her boiler, engine, and other machinery?

Ans. There were. There was patching the steam-chimney through the season while she was running, and in the fall of 1864—I disremember the month—they put in a new smoke-stack. Between January and March, 1865, they put in a new steam-chimney. I think there were very little repairs done to her after that up to her sale by the receivers. There were some repairs done after my father's death and before her sale by the receivers, and I think the bill for those repairs is 518 dollars, which is due but yet unpaid. The bills up to my father's death to Mr. Reeder, or up to October, 1865, were 4,700 dollars, which I have paid.

54th int. Did you ever examine the boiler which was in said steamer at the time of her purchase by your father? and if yea, then state the appearance and condition of said boiler when examined by you.

Ans. I never made any examination of it except in the spring of 1865, when Mr. Reeder was at work on her. Mr. Brown called my attention to her boiler at that time, and pointed out to me several dents in the boiler, and he said he thought it was caused by being in a steamer that had been burnt and sunk. He also called my attention to the steam-chimney, which had a great many patches on it, and I authorized him to get a new one made at Mr. Reeder's shop. My opinion is,
377 from its appearance, that it was an old boiler, but I am not a judge.

55th int. What became of said steamer? Where is she now in service? What alteration, if any, has been made in her structure, and when made, and at what cost?

Ans. She was bought from the receivers in this suit by the present owners of Slaughter's line, in which I am one-fourth owner. We rebuilt her in the spring of 1866, after we bought her, from her hull up, which repairs cost us 22,000 dollars. It was joiners' work principally—taking off the old and putting on new work; and some repairs were made to the boiler and engine; we built the new work as light as we possibly could, to lighten her draft of water; and it did lighten her about four inches. She is now employed on the same route, between Baltimore and Crumpton.

56th int. Is the same steamer, in her lightened condition, now able to reach the landing in Queenstown Creek?

Ans. She is able to reach it about half the time.

57th int. What other steamers are employed on the same route?

Ans. The steamer Chester.

58th int. Is the steamer Chester able to reach the landing in Queenstown Creek?

Ans. She generally reaches it, but sometimes the tide is so
378 low that she cannot get in; but this seldom happens.

59th int. Is the boiler of the Minna, in the condition in which she was placed by the repairs made on it, of which you have spoken, now in a serviceable condition for safe use?

Ans. It is not; we are going to contract for a boiler for her next week.

60th int. What do you expect to be the cost of such proposed new boiler?

Ans. We have estimates from the parties; one at 4,628 dollars, and the other at 4,845 dollars.

Cross-examined for Julius Gerson:

1st cross-int. Please explain how the estimates for the new boiler can be as you have stated, in view of Mr. Reeder's statement that a new boiler for the Minna, like that in her when your father bought her, would cost from 9,000 to 10,000 dollars.

Ans. At the time Mr Reeder was speaking of, iron and labor were much higher and there also a Government tax on the manufacture of boilers, which has been taken off.

2nd cross-int. Have you a vivid recollection of the particulars of your several visits to New York about the business of buying a steamboat?

Ans. Not a very vivid one. I only recollect certain points, as
379 the time has been so long I could not have a very vivid recollection.

3rd cross-int. You say your father and Capt. Robinson went to Newark, upon the first occasion of your father's visit to New York, and you went on to New York City; at what place did they and Mr. Counsellor and yourself first meet together on the next day before proceeding to Mr. Hazard's office? I mean before and on the day of your and their first visit to Mr. Hazard's.

Ans. At the ferry at the foot of Courtland street.

4th cross-int. Which of the party proposed at that time, if either, to go to Mr. Hazard's office?

Ans. I do not remember.

5th cross-int. Are you very sure your said party rode from the foot of Courtland street upon that occasion to Mr. Hazard's office? if so, what

circumstance fixes it in your memory, either in the way of direction to and payment of the carriage driver, by whom made, and where and how much, or either of these particulars?

Ans. I am. My father was lame, and not able to walk so far. Mr. Counsellor got the carriage, and I don't think the driver charged him anything, as he was in some way, I think, connected with the ferry, of which Mr. Counsellor was a director, as I understood.

6th cross-int. Who did you understand that from?

Ans. From the conversation I heard and had with Mr. Counsellor.

380 7th cross int. Did not your party make a mistake in the first instance as to the locality of Mr. Hazard's office?

Ans. I think not.

8th cross-int. When your party got to Mr. Hazard's office was any remark made or direction given to the driver before your party entered from the street into the building in which Mr. Hazard's office was; if so, what was the direction, and who gave it?

Ans. I do not remember.

9th cross-int. Was the driver told or not to wait for you?

Ans. I do not remember.

10th cross-int. Was the carriage in which your party drove to Mr. Hazard's office the same in which you afterwards on the same day drove from that office?

Ans. I do not remember. I think that Mr. Hazard went after Mr. Ger*man* and he came for us in a carriage. I think I made a mistake the day before yesterday, and that Mr. Hazard went after Mr. Gerson and he came for us in a carriage, instead of our going for him, since I came to study on it. I think that was the case. The time is so remote that these little things are hard to recollect.

11th cross-int. Did your party, on Mr. Gerson's coming for you in a carriage, drive directly to the boat, or preliminarily to Mr. Gerson's office?

381 Ans. I think we drove to the boat, or to the wharf; I don't remember whether the boat was there or not at the time.

12th int. Are you able to settle about the time of day when your party, on this occasion, got to the wharf? Please refer in your mind to the time you got your breakfast that morning, how long you waited after breakfast, and where, before the said other members of your party joined you, the distance and time of your drive to Mr. Hazard's office, the length of your interview with him, and of his departure and absence and return with Mr. Gerson, the duration of your drive from Mr. Hazard's office to the wharf; and then try to fix the time of day at which you reached the wharf, and state, to your best recollection, what the time of day was?

Ans. I cannot state the hour.

13th cross-int. Can you say whether it was as late as eleven o'clock a. m.?

Ans. I cannot.

14th cross-int. Can you state whether you got to the wharf as early as 12 o'clock m.?

Ans. I think I was before 12 o'clock, but am not certain.

15th cross-int. Do you think it was before 11 a. m.?

Ans. I can't say.

16th cross-int. What is your best recollection as to whether or not it was before eleven a. m.?

382 Ans. I think it was about eleven a. m., but am not confident.

17th cross- . Do you recollect whether or not, upon this occasion, your party all entered the boat together or simultaneously?

Ans. I do not.

18th cross int. Do you know whether or not yourself and your father went on board the boat, on this occasion, together or simultaneously?

Ans. I do not.

19th cross-int. Did you witness, and do you recollect of, any introductions upon this occasion?

Ans. I am not positive, but I think Capt. Crawford was introduced to us at that time.

20th cross-int. Do you recollect who, if any one, introduced Capt. Crawford?

Ans. I think it was Mr. Gerson.

21st cross-int. Do you recollect the language of Mr. Gerson in introducing him, and to whom such language was directed?

Ans. I do not.

The commission was then adjourned to the twenty-ninth day of April, in the same year, at noon, and the same place; at which last-mentioned time and place the commission met, pursuant to notice, and I proceeded, in the presence of the solicitors of the respective parties, to take
383 the following depositions, that is to say:

The said Joel C. Slaughter, being still cross-examined on behalf of the said Julius Gerson, makes oath, deposeth, and saith as follows, that is to say:

22nd cross-int. Do you recollect whether or not, when your said party arrived at the Minna, upon the occasion referred to, Capt. Crawford was present; if not, was any reason assigned for his absence?

Ans. I do not recollect.

23rd int. Please describe the exact circumstances which took place at the moment when you first heard anything *anything* of the conditional 1,000 dollars offer.

Ans. I cannot describe the exact circumstances.

24th cross-int. Where were you standing at that moment, where was your father, where was Mr. Gerson, and who else was present, if anyone, and where were such other persons or person standing? Describe the group and the position of the parties present, with reference to each other and the boat.

Ans. I cannot describe it so minutely as you require. I think Mr. Gerson, my father, Captain Robinson, Mr. Counsellor, and myself were on the wharf the first time I ever heard it. I heard it several times, but I am not positive where we were the first time I heard it.

25th cross-int. Describe the circumstances when you first heard
384 it, who spoke first about it, what was said first and what in reply, and give the order in which the remarks were made.

Ans. I cannot. I think the remark was made from Capt. Robinson and myself expressing a doubt about the draught of water.

26th int. What was that remark?

Ans. I do not remember what the remark was at that time, it has been so long ago.

27th cross-int. Was there a measuring-stick or rod taken on by your party, or any one of them, on either visit, to measure the draught of the Minna or any other boat?

Ans. I think there was on the last visit, when we went after her.

28th cross-int. Describe that measuring-stick, and who carried it on and how it was used; and describe further how it actually was used in measuring the Minna.

Ans. I think it was a square, or two pieces nailed together in a right angle. One of the men—I don't know whether it was George Anderson or Thomas Reeves—carried it on; they both went on to assist in bringing the boat back. I think they attempted to measure her by the wheel of the boat, but gave it up on account of the water being so rough. They sunk it and put it under the boat. I don't know whether they went into the wheel-house or not. I did not see it done and don't know.

They reported to me that they did not get the draught of water—
385 I mean the two men who undertook to measure the boat. I do not remember who they were, but I think George Anderson was one. I don't know who assisted him.

29th cross-int. You say "They reported to us," &c. Whom do you mean by us?

Ans. My father and myself. There may have been others present; I disremember.

30th cross-int. Where were your father and yourself when the report was made?

Ans. I don't know whether we were on the boat or on the wharf.

31st cross-int. Did you, at any time, instruct any of the men, or Captain Robinson, or any other person, as to what report should be made to your father about the boat, putting your instructions upon the footing that you feared that your father was not inclined to buy the boat and you were anxious he should buy her, or anything like that? If yea, to whom did you give such instructions, what were they, and what ground did you assign for giving them?

Ans. I don't remember giving any such instructions; I don't remember that anything of the kind happened.

32nd cross-int. Do you recollect any occasion when your father remarked that the boat might draw more water than would do, and your replying, "We have measured her, and she is all right; you won't
386 get her any cheaper anyhow, and I want furniture in her;" and your father rejoining, that you were a boy and too hasty, and had set your mind upon her, and would not give him time to bargain or anything like that?

Ans. I do not.

33rd cross-int. Was there not an occasion when something like that transpired, when Captain Robinson was present? I mean transpired between yourself and your father in New York on one of the times when Capt. Robinson was with you and present?

Ans. I think not. I don't remember anything of the kind.

34th cross-int. Do you recollect distinctly the first time your father told Mr. Gerson what route he intended for the boat? If yea, at what place and time was it, who were present, and what was said?

Ans. I do not.

THOMAS M. ROBINSON, a witness of lawful age, produced on the part of Joel C. Slaughter, being by me first duly sworn on the Holy Evangely of Almighty God, being examined on the following interrogatories to him propounded in that behalf, makes oath, deposeth, and saith as follows, that is to say:

387 1st int. State your residence and occupation.

Ans. I live in Queen Anne's County, Maryland; and was formerly a ship-builder.

2nd int. Do you know anything of the steamer called the George Law, and also called the Minna; and if yea, where did you first see said steamer?

Ans. I know her. The first place I saw her was on the North River, New York. I could not tell you about the time, except that it was in 1864; in what month or on what day I do not know.

3rd int. State how it was, and why it was, that you saw the said steamer at the time referred to by you.

Ans. Mr. Henry B. Slaughter took me on to examine the boat for him.

4th int. Who went on with you at the time you went on to examine said steamer?

Ans. Not anybody but Henry B. Slaughter and myself. His son, Joel C. Slaughter, came on in the night train and met us in New York.

5th int. After your arrival in New York, what steps were taken to enable you to make the proposed examination of said steamer? Where did you go, and what was done?

Ans. As well as my memory serves me, we went right to the steamer; I can't say though. I went down below, that is under deck, and
388 bored her in several places, and then came up and reported to Mr. Slaughter that I had found no rotten wood, but that her timbers were pretty badly stained. Her timbers were very dark, and timbers always become so after they commence rotting. That was all I was taken on for, and I made no further examination, that is as to the soundness of the hull. I then got a boat-hook or pole—I disremember which—to measure her draught of water forward and aft. I did measure her forward and aft, and found her to draw what water they represented her to, three feet and a half to the copper, I think, if my memory serves me. Her copper was somewhat out of the water. I did not measure her amidships. I told Mr. Henry B. Slaughter that I thought she drew too much water for the river. Mr. Gerson and several others were standing with Mr. Slaughter when I reported to him. I have no recollection who the others present were, but Mr. Gerson was there. Mr. Henry B. Slaughter said something to Mr. Gerson about the draught of water; I disremember what it was. Mr. Gerson speaks out and said, If she drew more *that* three and a half feet of water that he might have her for 1,000 dollars.

6th int. Are you able to name the persons who were then present, besides Mr. Henry B. Slaughter and Mr. Gerson?

389 Well, I have no recollection of anyone there, without it was Capt. Joel C. Slaughter. I think he was there.

7th int. Whilst there, did you meet with any person who was called Capt. Crawford?

Ans. I did not know him at that time.

8th int. Have you any recollection that both the Messr. Slaughter and you measured the boat by a square in the following manner: by going to the wheel and taking the square and running it under her bottom, one end up and the other down, to bring it to a level?

Ans. There was no measurement of that kind taken while I was there.

9th int. In your former answer you stated that you could not measure the steamer amidships. Now state why you could not.

Ans. Why, I had nothing to measure it with. There is no way to measure amidships without a great deal of trouble.

10th int. Was the water in the place where she was lying calm and still, or how?

Ans. It was very rough, sir, that day.

11th int. How often did you visit New York in reference to this steamer?

Ans. Only the once, sir.

Cross-examined for Julius Gerson:

390 1st cross-int. Did you go down to Perk Amboy on the Minna at any time, or did you get off at Burgen Point, and return from Bergen Point to New York with Henry B. Slaughter and Mr. Gerson?

Ans. Well, we went down to some point, but the name I don't know anything about, on the starboard hand going down, and I got off the boat at that point.

2nd cross-int. Did Joel C. Slaughter, upon that occasion, continue on the boat, and did the boat continue her trip with him on board?

Ans. I think she did. The boat was on her trip, and he went on in her down to Amboy.

3rd cross-int. Do you recollect anything about Joel C. Slaughter's urging his father to buy the boat, and his father replying that Joel was a boy, and too hasty?

Ans. Never anything of that kind in my presence.

4th cross-int. Did Joel C. Slaughter ever tell you to use your influence with his father to get his father to buy the boat?

Ans. No, sir.

5th cross-int. Did you ever have any conversation with him on that subject?

Ans. No, sir.

6th cross-int. Did you ever make a measuring-stick or rod, at Mr. Henry B. Slaughter' instance, to be taken on to New York for the purpose of measuring the boat?

391 Ans. Yes, sir. I made a temporary square for the purpose of its being taken on to New York to measure the boat, provided the water was calm; but whether it was taken on I don't know. I did not go on myself at that time.

7th cross-int. You say, "Provided the water was calm." What do you mean by putting that in your answer? Do you mean that Mr. Slaughter said, "Provided the water was calm?"

Ans. No, sir; the square would be of no use if there was any sea in the dock; that is what I mean by it.

8th cross-int. You would not call a little ordinary swell of four inches a sea, would you?

Ans. No, sir; for I never saw the water that calm yet in New York, even if there was not a breath of air; the steamboats would keep it as rough as that, at as much motion, in the slips in particular.

9th cross-int. If there was only a swell of four inches, the square you made would take the measure of the boat then?

Ans. Well, the square I made was only a temporary affair, and if it hadn't a been no rougher than that, it might probably have been measured by a skilful man.

392 The commission was then adjourned to the thirtieth day of April, in the same year, at eleven in the forenoon, and the same place; at which last-mentioned time and place the commission meet, pursuant to notice, and no witness for Julius Gerson appearing before me, I adjourned the commission to the second day of May, in the same year, at eleven in the forenoon, and the same place; at which last-mentioned time and place the commission met, pursuant to notice, and having appointed William S. Pinkney clerk, to attend the execution of this commission, and duly administered to him the clerk's oath to said commission annexed, I proceeded, in the presence of the solicitors of the respective parties, to take the following depositions, that is to say:

GEORGE W. ANDERSON, a witness of lawful age, produced on behalf of Julius Gerson, being by me first duly sworn, on the Holy Evangely of Almighty God, being examined on the following interrogatories to him propounded in that behalf, makes oath, deposeth, and saith as follows, that is to say:

1st int. State your name, age, residence, and occupation?

Ans. My name is George W. Anderson; I am thirty-seven years of age; I live at Crumpton, and am a ship-carpenter by trade, but am not now occupied at that.

393 2nd int. Are you the George Anderson who went on to New York with Henry B. Slaughter and Joel C. Slaughter, to help to bring around the Minna, otherwise the George Law, from New York to Baltimore?

Ans. Yes, sir.

3rd int. Did you take any measuring instrument to measure the boat with? if so, describe it, and state who made it.

Ans. Yes, sir; we took on a rod formed of three pieces of wood, made roughly, and put together with common screws, called a square. It was made by Thomas M. Robinson, with my assistance, but he was boss of the job.

4th int. After reaching New York, were you ordered to do anything which required the use of this measuring stick; if so, what were you ordered to do, and by whom?

Ans. Yes; I was ordered to measure the boat with it, as to her depth of water, I think, by Mr. H. B. Slaughter.

5th int. Did Joel Slaughter give you any direction, or express to you any wish, how you should measure the boat; and if so, what was it?

Ans. Yes, sir; he ordered me to measure it as light as possible, but that was not when I first went into the wheel, that was done after I had tried the rod under the bottom.

394 6th int. Before that wish was expressed, or direction given, had you or not already measured the boat under the wheel, and announced the result?

Ans. I had the rod under the bottom.

7th int. In what part of the boat?

Ans. Amidships, between the two water-wheels.

8th int. Had you announced the result of your measurement before he told you to measure as light as possible?

Ans. Yes, sir.

9th int. What was the result of the measurement as so announced by you?

Ans. Four feet six inches.

10th int. To whom had you made this announcement?

Ans. To Joel C. Slaughter.

11th int. Upon his telling you to measure as light as possible, did you measure again or not?

Ans. I tried the rod again.

12th int. And with what result?

Ans. I told him that four feet six inches was the best I could do.

13th int. Did you announce this result to anybody else on that occasion besides Joel C. Slaughter; and if so, to whom?

Ans. After we came out of the wheel, I did, to H. B. Slaughter and to the captain of the boat, who were standing on the wharf talking together.

395 14th int. Where did you learn the trade of ship-carpenter, and where have you followed it?

Ans. I learned it at New Castle, Delaware, and worked at New Castle and Wilmington, and at Crumpton. I helped to build the Chester.

15th int. Is there anything peculiar about the construction of the hull of the Chester; if so, what is such peculiarity?

Ans. I suppose there is; she is hooped instead of timbered.

16th int. Do you know why she was built in that way; if so, please state the reason?

Ans. I can't say why she was built in that way, unless it was that it would make her a better boat; but I can't say that that was the reason.

17th int. What effect does her being built in that way have upon her draft of water?

Ans. I don't know that it has any; it may possibly make her draw a little lighter draught, but I can't say that it even does that.

18th int. How is the Arrow built in this respect?

Ans. She is hooped.

19th int. Do you know whether or not the George Law, otherwise the Minna, has been burned since she was brought round to Baltimore?

Ans. She was partly burned.

20th int. About how long ago?

Ans. I don't recollect how long ago it has been.

396 21st int. Where was she lying when she was burned?

Ans. She was lying, I believe, at her wharf, at Light street. I was not here when it happened.

22nd int. Did you see her after she was burned?

Ans. Yes, sir.

23rd int. Describe the extent, in general terms, to which she was burned?

Ans. The upper hurricane deck was burnt off, and she was burned down by the crank room; the main deck I don't think was burned any.

24th int. Has she continued running on the Chester River route since said fire?

Ans. Yes, sir.

25th int. With the same boiler she had in at the time of the fire?

Ans. I believe it is the same boiler; I never heard of its being changed.

Cross-examined for Joel C. Slaughter, adm'r:

1st cross-int. When you went to New York to aid in bringing round the Minna, did Captain Robinson go on with you?

Ans. No, sir.

2nd cross-int. Was he in New York while you were there?

Ans. No, sir.

3rd cross-int. In what capacity were you to act in aiding to

397 bring the Minna round to Baltimore?

Ans. In no particular capacity; I was to do anything they asked me to do.

4th cross-int. Were you not expected to act as a deck hand, and did you not act as such?

Ans. I acted as deck hand, wheelsman, or anything that came to hand.

5th cross-int. At the time that you went on, were you specially employed for the occasion, or were you in the service of either, and which of the Messr. Slaughter; and if so, in what service, and on what terms of employment?

Ans. I was employed at that time by H. B. Slaughter. I don't recollect what I was doing, general work, I believe, at that time. I was employed by the month.

6th cross-int. Was the service to be rendered by you, under your said employment, to be performed on land or on the water, and state more particularly the nature of the services which you were expected to render under your said employment?

Ans. When I hired it was not mentioned what I was to do, and I was employed for general work, anything he asked me to do; if he asked me to go on a boat, I went on a boat; and if he asked me to do anything about the house or farm, I did it.

7th cross-int. You say that you helped to build the Chester; now state, if you please, when the Chester was built, and where built,
398 and who was the constructor of said vessel, and in what respect, to what extent, and in what capacity you rendered help in the building of said vessel?

Ans. I can't tell when the Chester was built, but she was built opposite Crumpton, in Kent County; Thomas M. Robinson was the constructor. I worked on her as a journeyman ship-carpenter; Mr. Robinson hired me, and Mr. Slaughter paid me.

8th cross-int. How long were you in the service of, and receiving pay from Henry B. Slaughter?

Ans. That is hard for me to say. I worked eleven months on the Chester; I then went away, and when I returned I worked for him by the month, but I cannot tell when I did return. I cannot tell how long I worked for him by the month, but up to the time of his death.

9th cross-int. After the death of Henry B. Slaughter, in whose employment did you engage, and what was the nature of such employment?

Ans. I continued on the George Law; I was on the George Law when he died. I suppose I was employed by the estate; Joel C. Slaughter employed me. I was mate of the George Law.

10th cross-int. How long did you continue on the George Law?

Ans. I don't recollect how long.

11th cross-int. Are you there now on the George Law?

Ans. No, sir.

399 12th cross-int. How long since you left that employment?

Ans. I don't know how long it has been. I was in her for a very short time after she was sold. I mean at the receiver's sale, when she was bought by the present company.

13th cross-int. When was she sold?

Ans. I don't know how long ago.

14th cross-int. Did the partial burning of the George Law, of which you have spoken, occur while you were on said boat, or after you had left?

Ans. It was after I had left her.

15th cross-int. While you were acting as mate of the George Law, could the boat at all times go to her landings on the route on which she was employed; if not, what was the cause?

Ans. No, sir; she could not get to all of them, and the reason was that she drew too much water.

16th cross-int. How were the passengers and freight landed at the landings which she could not get to?

Ans. At the landings to which she could not get the passengers were sent off in small boats, and the freight was either put off at some other wharf or kept on the boat until such time as she could get to the landing it was intended for.

17th cross-int. When was the square of which you have spoken, and in the making of which you say you assisted, made by Capt. Robinson?

Ans. It was made after his return from New York.

400 18th cross-int. At whose request did you take on said square, and for what purpose?

Ans. Mr. H. B. Slaughter told me to take it, for the purpose of measuring the depth of water of the boat.

19th cross-int. Did you know, at the time you went on, what was the draught of water necessary for a boat intended to reach the several landings on the Chester River route?

Ans. I knew that they did not want a boat to draw over three feet and a half if they could help it.

20th cross-int. What did the Chester and Arrow draw respectively?

Ans. The Arrow, I believe, drew thirty-three or thirty-four inches of water. I cannot say positively what the Chester drew. When I say thirty-three or thirty-four inches for the Arrow, I mean when she is light, not loaded—without freight.

21st cross-int. You spoke, in your examination-in-chief, of having gone into the wheel-house of the Minna to measure her draught of water between the wheels; when you so went in who accompanied you?

Ans. Captain Joel C. Slaughter. No other one.

22nd cross-int. Now describe the process actually pursued by you in making said measurement?

401 Ans. Well, I took the square and shoved it under her keel, and plumbed the other end; then, to ascertain the depth, I measured the end I plumbed, and found it four feet six inches. I could not say positively; I had a rough time to measure.

23rd cross-int. At the time of said measurement was the water calm and smooth, or agitated and swashing, or otherwise?

Ans. It was swashing; there was a sea on, and it was rough.

24th cross-int. Would a measurement under such circumstances give a reliable result?

Ans. In calm, smooth water it would give a very reliable result, but the way the water was when I measured, I could not speak positively.

25th cross-int. Was it visible to Joel C. Slaughter, in the position he occupied in the wheel-house, that a sea was on at the time?

Ans. Oh, yes; he could see it.

26th cross-int. Did you make any other measurement of the boat, in any other part; and if so, where?

Ans. Yes, sir; I measured under the rudder. I don't know whether I measured under the forward part or not; it seems to me that I did go forward, and her bow came up so that I could do nothing with it.

27th cross-int. What was the depth of water under the rudder when you so measured it?

Ans. Three feet six inches, as near as I can recollect.

402 28th cross-int. Who assisted you in making said last-mentioned measurement?

Ans. No one.

29th cross-int. Did you make that measurement before or after the time that you say Joel requested you to make the measurement as light as possible?

Ans. Afterwards.

30th cross-int. Did his request have any influence upon the measurement so made?

Ans. None with me.

31st cross-int. You say you mentioned to Henry B. Slaughter, while he was standing on the wharf in conversation with the Captain of the boat, that her draught amidships was four feet six inches; what response, if any, did Mr. Slaughter make?

Ans. I told him that my measurement made her draw four feet six inches; I don't remember whether he made any reply or not.

32nd cross-int. Who else, besides the Captain of the boat, was there present on the wharf with Mr. H. B. Slaughter at that time?

Ans. I don't recollect whether there was anyone else there or not.

33rd cross-int. Where was Joel at that time?

Ans. I don't know; I suppose he was somewhere about the boat.

34th cross-int. Are you able to state whether Mr. Slaughter
403 had his hearing perfectly at that time?

Ans. I think he had; I don't know though.

35th cross-int. How long did you remain in New York on the occasion of your said visit?

Ans. I don't recollect; may be four or five days; I don't recollect exactly how many days.

36th cross-int. How soon was it after you arrived in New York that the measurement of which you have spoken was made?

Ans. I don't know whether it was the same day or the next day that it was done.

37th cross-int. Has any person communicated with you, since this suit was brought, in relation to the evidence which you have now given? if so, name the person, state the time, and what passed.

Ans. No, sir; no person talked to me about it.

38th cross-int. Did you ever communicate to Mr. Gerson, or to either of his solicitors, directly or through anyone, the character of the evidence you have now given before you were called here to testify? and if so, name the person, if any, through whom you may have made such communication?

Ans. No, sir; I did not either to Mr. Gerson or either of his solicitors. I may have said something to Captain Crosby, who was the captain of the Law while I was the mate.

39th cross-int. Are you able, from knowledge of your own, to
404 state the relations between Captain Crosby and Joel C. Slaughter —are they friendly or otherwise?

Ans. I don't know how they are now; there was a time when they were not on very good terms; I don't think there was anything serious between them.

40th cross-int. What time do you mean; was it before or since the death of Henry B. Slaughter?

Ans. I think it was since his death, but I won't say positively.

41st cross-int. What time did Captain Crosby cease to be captain of the George Law?

Ans. I can't recollect the date, but it was since the death of Henry B. Slaughter.

Again examined for Julius Gerson:

26th int. State in whose employ you now are?

Ans. In the employ of Slaughter and Catlin, fruit packers.

27th int. Were the Chester and Arrow at all times able to make the landings on the Chester River route?

Ans. No, sir; not at all times.

28th int. How then did they land the passengers and freight at such landings as they could not reach?

Ans. The passengers were taken off in small boats, and the
405 freight was either landed at other wharves, or kept on the boats until they could reach the proper wharf.

29th int. When Mr. Henry B. Slaughter told you to take on the square, had Joel C. Slaughter any knowledge of it?

Ans. I suppose he had.

Again cross-examined for Joel C. Slaughter:

42nd cross-int. How often was the Arrow unable to reach any, and which, of her landings, and was it owing to too large a draught of water, or was it owing to the action of high winds upon the water? specify also the particular occasion or occasions when such inability to reach any landing occurred.

Ans. I could not specify all the times when she could not get to Queenstown, which is the landing I refer to; but she could get in with any common tide, unless very heavily loaded. When she did not get in it was generally caused by the wind making too low a tide.

43rd cross-int. What landing or landings do you refer to when you say the Chester could not always get in?

Ans. I refer to Queenstown.

(JULIUS GERSON, the complainant in the original suit, and the
406 defendant on the cross-bill, is produced and offered as a witness on his own behalf, but his competency to testify in this suit on his own behalf, is objected to by the counsel for the administrator, Joel C. Slaughter, and the witness is therefore withdrawn.)

Agreement of counsel No. 1 is filed.

No other witnesses being named or produced to me, I then, at the request of the solicitors of the respective parties, closed the said commission, and now return it closed under my hand and seal this second day of May, in the year of our Lord eighteen hundred and sixty-eight, at the city of Baltimore, in the State of Maryland.

FREDERICK PINKNEY, [SEAL.]
Commissioner.

There is an exhibit to this commission—agreement of counsel No. 1.

FREDERICK PINKNEY,
Commissioner.

In the circuit court of the United States, district of Maryland.

JULIUS GERSON
vs.
JOEL C. SLAUGHTER, ADM'R OF HENRY B. Slaughter, deceased;
AND
407 JOEL C. SLAUGHTER, ADM'R OF HENRY B. Slaughter, deceased,
vs.
JULIUS GERSON.
} Bill & cross-bill.

It is understood and agreed that the evidence, taken before Frederick Pinkney, esq., special commissioner, shall be read in both cases, as if a return had been severally made in each case. The testimony to be subject, nevertheless, to just exceptions.

W'M SCHLEY,
Sol'r for Slaughter.
ROB'T C. BARRY,
Sol. for Gerson.

And afterwards, to wit, on the 5th day of September, in the year last aforesaid, the following deposition of George W. Anderson, cross-examined for Slaughter, was filed in court here, to wit:

In the district court of the United States in and for the fourth circuit and district of Maryland. In equity.

Agreement of counsel.

JULIUS GERSON
vs.
JOEL C. SLAUGHTER, ADM'R HENRY B. Slaughter;
AND
JOEL C. SLAUGHTER, ADM'R HENRY B. Slaughter,
408 *vs.*
JULIUS GERSON.

It is agreed that George W. Anderson, a witness heretofore examined on the part of Mr. Gerson, shall be again examined on the part of Mr. Slaughter, upon the single point as to the measurement of the draft of water of the Minnie, spoken of by him in his former evidence. His testimony to be returned, as if the said commission had been remanded, and he had been examined under the said commission, and to have the same effect; subject to all just exceptions as to its admissibility and effect in the causes above entitled.

Baltimore, July 21st, 1868.

W'M SCHLEY,
Sol'r for Slaughter.
ROB'T C. BARRY,
For Gerson.

In the district court of the United States in and for the fourth circuit for the Maryland district. In equity.

JULIUS GERSON
vs.
JOEL C. SLAUGHTER, ADM'R OF HENRY B. Slaughter;
AND
JOEL C. SLAUGHTER, ADM'R OF HENRY B. Slaughter,
vs.
JULIUS GERSON.

409 Depositions taken by and before me, Frederick Pinkney, the commissioner executing and returning the commission in the above-entitled cases, under and in pursuance of the annexed agreement of counsel, the said depositions to be considered as if parcel of the testimony taken and returned under the said commission, on this twenty-first day of July, in the year of our Lord eighteen hundred and sixty-eight, at ten in the forenoon, at the office of William Schley, esquire, in the city of Baltimore, and State of Maryland.

GEORGE W. ANDERSON, being cross-examined on the following cross-

interrogatories to him propounded on behalf of the said Joel C. Slaughter, administrator, makes oath, deposeth and saith as follows, that is to say:

1st additional cross-int. When you were examined heretofore as a witness in these causes, you stated, in effect, that after you had measured the draught of water of the Minna amidships, you reported the result of your measurement to Mr. Henry B. Slaughter, then standing on the wharf; was or were any person or persons present at the time in company with said Henry B. Slaughter? and if so, name them.

Ans. Yes, sir; there was the captain of a boat; I forget his name, but I think it was Crawford; there was no one else that I recollect.

410 2nd additional cross-int. In your former examination you stated that Henry B. Slaughter made no reply to your remark; was any reply made by Captain Crawford? and if yea, state what he may have said at the time.

(Objected to.)

Ans. I said that I did not think Mr. Slaughter made any reply, nor do I, but Captain Crawford did. Captain Crawford said that she did not draw the draught of water that I measured, and also told me to go aft and measure, which I did. When I went aft and measured under her rudder, I found her to draw three feet six inches under her rudder. When I measured I did not go down to the water and measure with a rule. I just hooked her with the square and guessed. I guessed the height of the sea. I took the highest point of the sea, and the lowest, and guessed at half the difference, which I thought would be a fair measurement. I also tried to measure her forward, and found her to come up so sloping, that I could not get the measurement, although I put the rod down.

3rd additional cross-int. What was the condition of the water at the time?

Ans. The water was rough.

4th additional cross-int. After you had made the measurements, or attempted measurements aft and forward, did you report the re-

411 sult of your efforts to Mr. Slaughter and Capt. Crawford, or to either of them? and if you did, please state all that said on the occasion.

Ans. I told Capt. Crawford that I made her draw three feet six inches aft under the rudder, as near as I could come at it, and then asked him if the rudder was down flush with the shoe; he said it was. I then asked him if she was straight on the keel, and he answered that she was.

5th additional cross-int. Was Henry B. Slaughter present when this conversation took place between you and Captain Crawford?

Ans. I think he was, but cannot say positively.

6th additional cross-int. Why did you not state on your former examination the fact of these attempted measurements, and the remarks of Captain Crawford, to which you have now deposed?

Ans. If I did not state them then, it was because I was not asked.

Examined for Julius Gerson:

1st additional int. Have you or not had any conversation with any one; and if so, with whom, about the facts you have sworn to to-day, since your last examination?

Ans. No, sir; all I have said has been to-day.

In witness whereof I hereunto set my hand and seal on this

412 twenty-first day of July, in the year of our Lord eighteen hun-

dred and sixty-eight, at the city of Baltimore in the State of Maryland.

FREDERICK PINKNEY, [SEAL.]
Commissioner.

There are no exhibits to this deposition.

FREDERICK PINKNEY,
Commissioner.

And afterwards, to wit, on the 25th day of September, in the year last aforesaid, the following testimony of John Crawford and agreement was filed in court here, to wit:

In the district court of the U. S., Maryland district.

JULIUS GERSON,
vs.
JOEL SLAUGHTER, ADM'R OF HENRY C. Slaughter, dec'd.

Mr. CHEW:

It is agreed that the testimony of Capt. Crawford shall be further taken before Peter Starr and Joseph W. Howe, esquires, commissioners, or either of them, and that the said testimony, when taken, shall be used in the above-entitled cause, as if taken under a commission regularly issued.

ROB'T C. BARRY,
413 *For Gerson.*
W'M SCHLEY,
Sol. for Slaughter Adm'r of Slaughter.

B. W. HUNTINGTON.
W. P. RICHARDSON.

In the district court of the United States, Maryland district.

JULIUS GERSON
vs.
JOEL SLAUGHTER, ADM'R OF HENRY C. Slaughter, dec'd.

JOHN CRAWFORD recalled on behalf of Julius Gerson, and being examined by B. W. Huntington, esq., further testified, as follows:

1st interrogatory. Have you been informed of the supplementary testimony given by George Anderson in these cases, and are you the Capt. Crawford therein referred to?

(The supplementary testimony referred to in this interrogatory, is here read to the witness by the commissioners.)

Ans. I have been informed; I am the same man referred to.

2nd int. Please state what he asked you about the Minna being straight on the keel, and what you replied, and who was present; and explain about a vessel of that sort drawing more amidships than
414 forward and aft, and whether or not that is a matter well known among steamboatmen?

(Objected to by counsel for Slaughter.)

Ans. Mr. Anderson asked me, after he had got through with the

measurement, if she was straight on the keel. I told him she was built straight on the keel. I think Mr. Henry B. Slaughter was present. I can't be certain—I am not positive. Whenever vessels of that sort are built straight on the keel, and draw more water amidships than forward and aft, it is on account of their settling amidships by weight of machinery. This is a matter well known among steamboatmen.

3rd int. In putting on the water-line of a new steamboat, do you know what the practice is as to drawing it straight or otherwise? if so, state that practice and give the reason.

(Objected to by counsel for Slaughter.)

Ans. I know the practice. It is customary to raise the water-line from four to six inches amidships than at ends. The reason is to make the water-line show an account of the heel of the boat. The least heel of the boat would throw it under amidships, if it was not raised. I mean by heel that you may call it keel, or list, or anything that
415 would throw it off an even keel.

4th int. Had you any, and if so, what grounds for saying to Anderson that the Minna was built straight on the keel?

(Objected to by counsel for Slaughter.)

Ans. I don't know that I had any partieular reason, except he asked me the question. I knew it by having her hauled out on the dry dock on straight keel blocks.

Cross-examined by Mr. Richardson, counsel for Slaughter:

1st cross-int. When did this conversation above referred to take place, and where?

Ans. If you know the day when they measured the boat, I can tell you, because that was the day. I forget. It was on the forward deck of the steamboat Minna, pier 26 North River, New York City.

2nd cross-int. About how long ago was it?

Ans. I think it was three years ago last April; I am not positive; I may be a year out of the way.

3rd cross-int. Who was present besides you and Mr. Anderson?

Ans. I think Henry B. Slaughter, I am not positive.

4th cross-int. Have you stated all you said to Mr. Anderson in
416 that conversation in regard to the Minna' keel?

(Question waived.)

5th cross-int. Have you read, or heard read, the testimony of Mr. Anderson read to you here to-day, before it was read to you here?

Ans. I have read it and heard it read.

6th cross-int. When and where and by whom was it read to you?

Ans. On the 23rd inst., about two o'clock, on the steamer Matteawan, North River, pier 26, by Judge Huntington.

7th cross-int. Are you, or have you ever been, a carpenter or ship-builder?

Ans. I never learned a ship-carpenter's trade. I have contracted and built thirteen steamboats in my day, ranging from 150 to 500 tons.

JOHN CRAWFORD.

The above deposition was taken before us at the city of New York, this 24th day of September, 1868.

PETER STARR,
J. W. HOWE,
Commissioners.

And afterwards, to wit, on the 7th day of December, in the year last

aforesaid, the following opinion and decree were filed in court here, to wit:

417 *Court's opinion.*

JULIUS GERSON
vs.
HENRY B. SLAUGHTER.

Bill was filed on the equity side of this court on 15th July, 1864, and prayed for a decree for the sale of the steamers George Law and Chester, for the payment of the sum of twelve thousand five hundred dollars, with interest, being the amount of the first instalment due on the mortgage of said steamers, and also for an injunction and for the appointment of a receiver, &c. With the bill there was filed the bond of the defendant, dated the 12th April, 1864, for $50,000, with a condition that if the defendant should pay to the complainant the sum of $12,500, on or before the 12th July, 1864, and the sum of $12,500 on or before the 12th Oct., 1864, with interest at 7 per cent. then the said bond to be void, &c. And two mortgages of same date were also filed, one of the steamer Chester, and the other of the steamer George Law, given to secure the payment of the said bond, which were duly executed. These are Exhibits 1, 2, and 3, filed with the said bill of complaint.

The defendant was duly summoned.

On hearing, the motion for an injunction was overruled. On
418 23rd July, 1864, the answer of Henry B. Slaughter was filed, in which he admits the execution and delivery of the said bond and mortgages, being complainant's Exhibits No. 1, 2, and 3, and that they were duly acknowledged and recorded, and that no part of the said bond had been paid; and defendant then in said answer sets up the defense to the prayer of complainant's bill, that said bond and mortgages had been obtained by fraud and deceit. And then he goes on to state the particulars of the alleged fraud and deceit, which is thus briefly stated; that he, defendant, had purchused the George Law from the complainant on the representation that she drew only 3½ feet of water when fully laden, but that when defendant brought said steamer to Maryland, and put her on the route for which he had purchased her, she grounded in five feet of water.

Henry B. Slaughter, on the 1st August, 1864, filed a cross-bill, stating in substance the facts alleged in his answer to Gerson's bill, and praying for a decree to set aside the sale to him of the steamer George Law for fraud and deceit, and for a return of the cash payment he made on said purchase, and to have declared void the said mortgage. To this bill, the defendant filed an answer directly responsive to all its allegations of fraud and deceit, and positively denying the
419 same.

On the 4th Dec., 1865, a petition was presented by the adm'r of Henry B. Slaughter, (who had died since the filing of the cross-bill,) praying that a receiver might be appointed to take possession of the George Law, and that she might be sold, and the proceeds of her sale deposited in this court, to await the final decree in this cause. Gerson answered the petition, assenting to the passage of the order prayed for in it; and on the 9th Feb., 1866, this court passed an order appointing Rob't C. Barry and W'm C. Schley, esq's, receivers of said steamer, and to deposit the proceeds of the sale, after deducting costs and their commissions with the clerk of the court to the credit of this cause.

The report of the receivers was made to this court on the 22nd March, 1866, in which they report the sale of the said steamer to Joel C. Slaughter, for the sum of $8,800; and after deducting all costs of sale, receivers' com'n &c., there was left in the hands of the clerk of this court of $7,902 76, to await the final decree in the cause.

As the cause was likely to be for some time in court, the parties to it, complainant and defendant, by their solicitors, came into court by petition on the 2nd April, 1868, and prayed the court to order the clerk to pay over to the said parties, or to their solicitors, each one-
420 half of the net proceeds of the sale of the said steamer George Law; the petition stated that said parties had given to each other security to produce the said sums with interest, so far as may be necessary in the part of both or each to comply with the final decree in this cause; and the order of this court was passed in accordance with the said agreement; and the sum of $7,902, 76 was paid by the clerk to the said solicitors, making the sum of $3,951 38 to each.

A large mass of evidence has been taken in this cause, but from the view which I take of the rules which must govern me in its decision, I am relieved from the examination of a large part of it. With the evi dence is exhibited the bill of sale made by Gerson to Slaughter of the George Law; it contains a detailed description of the steamer, but does not state her draft. It bears date the 12th day of April, 1864. Clearly, therefore, by the well-recognized principles of evidence, you cannot add anything by parol evidence to the written contract of sale. You can only prevent its enforcement by shewing that it was procured through the fraud or deceit of the complainant; and the burden of proof is on the defendant to establish the existence of this fraud or deceit. Again, as the answer of defendant admits the execution
421 and delivery of the bond and mortgages, and sets up in defense certain facts which he alleges amount to fraud and deceit on the part of the complainant, and which facts are not responsive to any allegations of complainant's bill; the answer of defendant as to the same is not evidence in the cause.

With these rules of evidence to govern us, let us examine the evidence in reference to the defense, set up by defendant, viz: That he purchased the George Law, upon the representation that she drew, when fully laden, 3½ feet of water. Upon this subject the evidence is very conflicting; and except in collission cases, I have never see' a case where there was so much conflict in the testimony of intelligent witnesses. It only illustrates the wisdom of the rule of evidence which forbids the admission in evidence of loose conversations and declarations to add to, vary, or control the terms and conditions of a written contract.

You are met on the threshold of the evidence with the admitted fact, that before defendant agreed to purchase the George Law, he went to New York, taking with him his son, Joel C. Slaughter, (her future master,) and Mr. Robinson, a ship-carpenter, and George W. Anderson, to examine said steamer, carrying on with them a square to measure her draught of water; that they did so measure her on two occasions,
422 and make a most minute examination of her hull, and witnessed her speed and working, by going down in her on one of her usual trips. The evidence then shows that these men, owner, and captain of steamer, and ship-carpenter had every opportunity to examine the steamer afforded them by the owner.

To sustain the facts on which defendant relies as proof of fraud, we have the evidence of—

1. Jeremiah Counsellor.
2. William P. Richardson.
3. William H. Wood.
4. Joel C. Slaughter.
5. James Brannan.

For the complainant we have—
1. William H. Hazard.
2. Capt. John Crawford.
3. John H. Golding.
4. John H. Hadkins.
5. John L. Myer.
6. George W. Anderson.

Now, as to Counsellor, his evidence is principally as to declarations and representations by Hazard. As Hazard, in a personal interview between complainant and defendant, referred defendant to Gerson, this evidence of Counsellor does not amount to anything.

Wood swears the George Law draws 4.4-in. light, and 4.8-in.
423 loaded.

Joel C. Slaughter says Capt. Robinson examined the boat, and made her draft 3½ feet. (See answer to 15 interrogatory.)

Captain Crawford told him that, with her coal and water on board, she drew only 3½ feet.

Robinson means he measured her, and found her draft 3½ forward and aft. He did not measure amidships. He told Mr. Henry B. Slaughter he thought she drew too much water for the river—he means, it was very rough the day he measured her.

Now, we have 6 witnesses for the complainant on the subject of the draft of the steamer—

1st. George Anderson, who went to New York with defendant to bring the steamer to Baltimore. He describes the instrument they carried on to measure the draft of the steamer, and he was ordered to measure it by H. B. Slaughter. He measured it, and found the draft of water amidships 4 feet 6 inches, and he so announced it. He made this announcement to Joel C. Slaughter. He told this also to Henry B. Slaughter and to the captain of the boat.

Mr. Hazard refutes the whole charge of fraud and deceit by Gerson. (See his answer to the 78th interrogatory.) Henry B. Slaughter said, as to the draft, he had relied more on what Capt. Crawford had told him than upon his own judgment.

424 Capt. John Crawford, (see his answer to the 8th question.) He told Henry B. Slaughter her draft at each end was 3½ feet, and she would measure more amidships; and he shewed to Slaughter how high she was coppered. This was 3 feet 9 inches, and the copper shewed three inches out of water.

(See answer to 9 question, as to how much she would draw loaded.)

Answer to 10 question: Gerson told Slaughter that he knew nothing about her draft of water, only what he had been told by her captain, &c. Golding means she measured 3½ from her keel to her water line.

This witness was present when Anderson measured her draft at the dock in New York. Anderson said he made her draft between 4 and 4½ feet. Henry B. Slaughter was present at this measurement.

John H. Hadkins also testifies as to the measurement of the steamer, and the report to Henry B. Slaughter that she measured over 4 feet.

John L. Myer, a builder of steamboats, says she was built to draw 3½ feet at her ends, and 4 feet amidships. He saw her on her trial-trip—

she drew 1½ inches less than he had marked her for. Now, one thing is perfectly clear from a careful review of the evidence, and that is, that before Henry B. Slaughter purchased the George Law, he made
425 a most thorough examination of her; tried her speed and measured her draft; and if he did not ascertain her true draft, it was his own fault, for he had every opportunity to do so; and, having this opportunity, it is no defense for him now, in a suit brought to recover the balance of the purchase-money still due, to set up the loose conversations in reference to the draft made before the execution of the written contract of sale. If he relied upon them, and they were made to him by the complainant, he should have had them inserted in the description given of the steamer in the written contract. But I think the evidence shews that if he relied upon the statements of any one on the subject, it was on the statements of the captain of the said steamer.

Again, defendant cannot pretend that he was deceived by these statements, because he was put on his guard by the men in his own employ, who measured her, and who reported to him that she measured over 4 feet.

Finally, I am led to believe, from the evidence, that she did, when light, (that is, with only her coal and water on board,) measure only 3½ feet at both ends. Now, the most experienced men who have been examined, say that, when you speak of the draft of a steamer, you are understood to speak of what she draws without her cargo on
426 board. And reason and common sense confirm this understanding of the term; otherwise no draft could ever be registered on a steamer; for, with one cargo she might measure 4 feet, and with another 5, or, possibly, 6 feet. And, as the defendant has failed to sustain the allegations of his answer in reference to fraud and deceit alleged to have been practised on him by complainant in the sale of the said steamer, I will sign a decree for the payment over to the complainant of the nett proceeds of the sale of the George Law, and also for the sale of the steamer Chester, for the payment of the balance due on the said bond of Henry B. Slaughter, after crediting the nett proceeds of the George Law.

And I will also sign a decree dismissing the cross-bill filed by Slaughter, with costs to defendant.

Decree.

In the circuit court of the United States and in and for the fourth circuit and district of Maryland.

JULIUS GERSON
vs.
JOEL C. SLAUGHTER, ADM'R OF HENRY B. Slaughter, deceased.

427 This cause standing ready for hearing, and the same having been heard on the bill, answer, and evidence, it is thereupon, on this 7th day of December, A. D. 1868, by the authority of this court, adjudged, ordered, and decreed, that the defendant, Joel C. Slaughter, administrator of Henry B. Slaughter, deceased, pay to the complainant, Julius Gerson, the sum of thirty-nine hundred and fifty-one $\frac{38}{100}$ dollars, with interest, at the rate of 6 %, thereon, from the 2nd day of May, 1868, being one-half of the nett proceeds of the sale of the steamer George Law, under the order of this court, the other half of said proceeds of

sale having been received by the complainant, as per agreement filed in this cause under date of May 2nd, 1868.

And it is further ordered, adjudged, and decreed that, unless the defendant, Joel C. Slaughter, adm'r of Henry B. Slaughter, deceased, shall, on or before the first day of January, A. D. 1869, pay, or bring into this court to be paid unto the complainant, Julius Gerson, the balance due on the bond and mortgages filed in this cause, and ma'ked Complainant's Exhibits Nos. 1, 2, & 3, with the complainant's costs of this suit to be taxed by the clerk, that the steamboat or vessel called the "Chester," of Baltimore, in these proceedings mentioned be sold.

That Robert C. Barry be, and he is hereby, appointed trustee
428 to make such sale, and that the course and manner of his proceedings shall be as follows: He shall first file in the clerk's office of this court a bond to the United States, executed by himself, with a surety or sureties to be approved by the court, in the penalty of thirty thousand dollars, conditioned for the faithful performance of the trust reposed in him by this decree, or which may be reposed in him by any future decree in the premises. He shall then proceed to make sale of said mortgaged steamboat or vessel, having first given at least ten days' (weeks') previous notice, inserted in two or more newspapers printed in the city of Baltimore, and such other notice as he may think proper, of the time, place, manner, and terms of sale, which terms shall be as follows: The purchase-money to be paid one-half cash on day of sale, and the balance on a credit of six months—the credit payment to bear interest from the day of sale, and the payment thereof to be secured by the notes of the purchaser or purchasers, with surety or sureties, to be approved by the trustee, or all cash on the day of sale, at the option of the purchaser. And, as soon as may be convenient after such sale, the said trustee shall return to this court a full and particular account thereof, with an affidavit thereof, and of the fairness of
429 such sale, annexed; and, on the ratification of such sale by the court, and on the payment of the purchase-money, (and not before,) the said trustee, by a good and sufficient bill of sale or instrument in writing, to be executed and acknowledged agreeably to law, shall convey to the purchaser or purchasers of said steamboat or vessel called the "Chester," and to his, her, or their heirs and assigns, the property to him, her, or them sold, free, clear, and discharged of all claim of the parties to this cause, and of any person or persons claiming by, from, or under them; and the said trustee shall bring into the registry of this court the money arising on such sale, and the notes, which may be taken for the same, to be disposed of under the direction of this court, after deducting therefrom the costs of this suit, and such commission to the said trustee as the court shall think proper to allow on consideration of the skill, attention, and fidelity wherewith he shall appear to have discharged his trust.

WILLIAM F. GILES.

And afterwards, to wit, on the 3rd day of February, in the year of our Lord 1869, the following bond of Robert C. Barry, trustee, was filed in court here, to wit:

Bond.

430 Know all men by these presents that we, Robert C. Barry, of Baltimore County, State of Maryland, John Stewart and Thomas M. Lanahan, of the city of Baltimore, of same State, are held and firmly

bound unto the United States of America in the full and just sum of thirty thousand dollars, current money, to be paid to the said United States of America, or to its certain attorney; to which payment well and truly to be made and done, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this 2nd day of February, in the year eighteen hundred and sixty-nine.

Whereas, by a decree of the circuit court of the United States, and in and for the fourth circuit and district of Maryland, bearing date the 7th day of December, A. D. 1868, and passed in a cause in the said court wherein Julius Gerson was complainant, and Joel C. Slaughter administrator of Henry B. Slaughter, deceased, was defendant, the above-bound Robert C. Barry has been appointed trustee to make sale of the steamboat or vessel called the "Chester," of Baltimore, in the proceedings in said cause mentioned:

431 Now, the condition of the above obligation is such, that if the above bounden Robert C. Barry do and shall well and faithfully perform the trust reposed in him by said decree or that may be reposed in him by any future decree or order in the premises, then the above obligation to be void; otherwise to remain in full force and virtue in law.

ROB'T C. BARRY. [SEAL.]
JOHN STEWART. [SEAL.]
T. M. LANAHAN. [SEAL.]

Signed, sealed, and delivered in the presence of—
JA'S W. MCELROY.

And afterwards, to wit, on the 1st day of March, in the year last aforesaid, the said Rob't C. Barry, trustee as aforesaid, made the following report, to wit:

Report.

Circuit court of the United States in and for the fourth circuit and district of Maryland. In equity.

JULIUS GERSON
vs.
JOEL C. SLAUGHTER, ADM'R OF HENRY B. Slaughter, dec'd.

To the Hon. the judges of the circuit court of the United States in and for the fourth circuit and district of Maryland:

The undersigned trustee appointed under and by virtue of the
432 decree heretofore passed in the above-entitled cause, did, in pursuance of the terms of said decree, and after having duly bonded and qualified as such trustee, offer at public sale, on Tuesday, February 16th, 1869, after due notice by advertisements in the Sun and American, two daily newspapers published in the city of Baltimore, at the Exchange sales-room, in said city, the "steamer Chester of Baltimore;" and that said "steamer Chester of Baltimore," was purchased by H. J. Albert for $7,000, (seven thousand dollars,) he being the highest bidder therefor. The undersigned further reports that said purchaser has complied with the terms of sale as prescribed by the decree; and he prays to be

allowed the auctioneer's charges, expenses of advertising, the usual commissions, &c.

Respectfully submitted.

ROB'T C. BARRY,
Trustee.

STATE OF MARYLAND,
Baltimore City, sct:

On this 1st day of March, A. D. 1869, before me, the subscriber, a duly-appointed commissioner of the United States, personally appeared Rob't C. Barry, the aforegoing named trustee, and made oath, in due form of law, that the matters and facts set forth in the foregoing report, are just and true as therein set forth, and that said sale was fairly and bona fide made.

433

ROB'T LYON ROGERS,
United States Commissioner.

To the Hon. W'M F. GILES:

The undersigned trustee begs leave to substitute, as purchasers of the "steamer Chester of Baltimore" as aforesaid, in lieu of H. J. Albert, the following named parties: Budd S. Ford, John J. Shaub, Joel C. Slaughter, Jacob Barkman, and Samuel M. Lawder, they having purchased H. J. Albert's interest in said steamer.

Respectfully submitted.

ROB'T C. BARRY,
Trustee.

I assent to the aforegoing.

HENRY J. ALBERT.

Test:

B. W. HUNTINGTON.

Whereupon the court passed the following order, to wit:

In the circuit court of the United States for the 4th circuit and district of Maryland. In equity.

Ordered, This 2nd March, 1869, that the sale made and reported by Rob't C. Barry, trustee appointed in the case of Julius Gerson
434 against Joel C. Slaughter, adm'r of Henry B. Slaughter, be ratified and confirmed, unless cause to the contrary be shown on or before the 5th day of April next: Provided a copy of this order, *in* inserted in some newspaper, published in the city of Baltimore, once a week for three successive weeks before the said 5th day of April next.

The report states the amount of sales to be $7,000 00.

WILLIAM F. GILES.

And afterwards, to wit, on the 5th day of April, in the year last aforesaid, a certificate of publication of the foregoing order, to which is annexed a printed copy of the same, was filed in court here, to-wit:

OFFICE OF THE "BALTIMORE GAZETTE,"
Baltimore, April 5th, 1869.

This is to certify that the annexed advertisement of order and ratification—case of Gerson vs. Slaughter, was published in "The Baltimore

Gazette," a daily newspaper published in the city of Baltimore, once a week in each of three successive weeks before April 5, 1869.

BALT'O. GAZETTE.
ABEY.

435 Whereupon the court passed the following order, to wit:

In the circuit court of the United States for the 4th circuit and district of Maryland. In equity.

Ordered, this 6th day of April, A. D. 1869, that the sale within reported be, and the same is hereby, ratified and confirmed, no cause to the contrary thereof having been shown, although notice appears to have been given as directed by the preceding order. The trustee is allowed the usual commission, and the sum of one hundred and five dollars $\frac{25}{100}$ for his expenses of sale.

WILLIAM F. GILES.

And afterwards, to wit, on the 10th day of April, in the year last aforesaid, the following master's report and account were filed in court here, to wit:

Master's report and account.

In the United States circuit court for the fourth circuit in and for the Maryland district.

IN THE CASE OF JULIUS GERSON
vs.
JOEL C. SLAUGHTER, ADMINISTRATOR OF HENRY B. Slaughter, deceased.

436 To the Honorable W'M F. GILES, judge, &c.:

The master in chancery reports to the court that he has examined the proceedings, in the above-entitled cause, and from them has stated the within account. All of which is respectfully submitted.

JNO. S. HANAN,
Master in Chancery.

Robert C. Barry, esq., in account with the steamer Chester.

To trustee for his commissions		325 00
" " " " expenses:		
Advertising in "Sun"	20 25	
" " "American"	15 00	
" " "Exchange"	3 00	
" auctioneer for selling	30 00	
" exchange fee	2 00	
" State tax on $7,000 ½%	35 00	
		105 25
" the clerk, (J. W. Chew,) 1% on $3,500		35 00
" the master for his fee		15 00
		480 25
" Balance due Julius Gerson by decree of court		6,519 75
		$7,000 00
By amount of sales		$7,000 00

437 And afterwards, to wit, on the 14th day of May, in the year last aforesaid, the court passed the following order to wit:

In the circuit court of the United States for the Maryland district.

Ordered, by the court, this 14th day of May, 1869, that the foregoing account be ratified and confirmed as stated and reported by the master, unless cause to the contrary be shown within ten days of this date.

WILLIAM F. GILES.

And afterwards, to wit, on the 2nd day of July, in the year last aforesaid, the court passed the following order, to wit:

In the United States circuit court for the district of Maryland.

Ordered, by the court, this second day of July, 1869, that the aforegoing account of the master be, and the same is hereby, finally ratified and confirmed, no cause to the contrary having been shown, and that the trustee apply the proceeds accordingly, with a due proportion of interest as the same has been or may be received.

WILLIAM F. GILES.

438 And afterwards, to wit, on the 2nd day of June, in the year of our Lord, 1870, the following petition and order of court were filed in court here, to wit:

In the circuit court of the United States in and for the fourth circuit, in and for the Maryland district.

JULIUS GERSON
vs.
JOEL C. SLAUGHTER, ADM'R OF H. B. SLAUGHTER, dec'd. } Cross-bills.

To the Hon. W'M FELL GILES:

The complainant in the above-entitled cause respectfully asks leave of the court to refer the papers in the above-entitled causes to the master for a report.

All of which is submitted.

BOB'T C. BARRY,
For Complainant.

BALT'O., *June 2nd*, 1870.

Ordered, by the court, this 2nd June, 1870, that the papers in the above cause be referred to Jno. S. Hanan, esq., master in chancery for the purpose of stating an account.

WILLIAM F. GILES.

And afterwards, to wit, on the 2nd day of June, in the year last aforesaid, the following master's report and statement were filed in court here, to wit:

439 *Joel C. Slaughter, administrator of Henry B. Slaughter, deceased, to Julius Gerson, complainant.*

DR.

1879.

June 2nd.	To amount of bond given by H. B. Slaughter in his life time, dated the 12th April, 1864, as per bond filed as Complainant's Exhibit No. 1..	$25,000 00
	Interest from 12th April, 1864, to 20th March, 1866, the day of the sale of the steamer "George Law," per receiver's report filed 22nd March, 1866, at 7% interest, according to the terms of the above bond, 1 y'r, 11 mo's, 8 d'ys	3,393 06
		$28,393 06
	Then credit the nett proceeds of sale of the "George Law," being the amount paid to the attornies of complainant and defendant, for their receipts of 2nd May, 1868.....	7,902 76
		$20,490 30
	Interest on balance from 20th March, 1866, to 16th February, 1869, the day of the sale of the steamer Chester, of Baltimore, per trustee's report filed 1st March, 1869, at rate of 7 % as above; 2 y'rs, 10 mo's, 26 d'ys	4,167 50
		24,657 80
440	Then credit nett proceeds of the Chester, of Baltimore, per master's report filed 20 April, 1869.	6,519 75
		$18,138 05
	Interest on balance, from 20 April, 1869, to this day, at 7 %, as above; 1 y., 1 m., 22 d.....	1,417 79
		$19,555 84

(Over.)

In the United States circuit court for the fourth circuit, in and for the district of Maryland.

IN THE CASE OF JULIUS GERSON
vs.
JOEL C. SLAUGHTER, ADM'R OF H. B. SLAUGHTER, dec'd.

To the Honorable W'M F. GILES, judge, &c.:

The master in chancery reports to the court that he has again examined the proceedings in the above-entitled cause, and from them made the within statement showing the amount now due to the complainant.

All of which is respectfully submitted.

JNO. S. HANAN,
Master in Chancery.

BALT'O., *June 2nd*, 1870.

Additional costs, viz:
Clerk, $3 50; master's fees, 25 00—$28 50.

441 And afterwards, to wit, on the fourth day of August, in the year 1870, the said Joel C. Slaughter, administrator of Henry B. Slaughter, by his said attorney, prayed an appeal from the decree aforesaid, so as aforesaid passed, to the Supreme Court of the United States to be held at Washington on the first Monday in December next. And to him it is granted.

It is therefore ordered by the court here that the record and proceedings aforesaid, with all things thereunto relating be transmitted to the said Supreme Court. And the same are transmitted to the said Supreme Court accordingly.

Appeal bond.

Know all men by these presents that we, Joel C. Slaughter, Jos. Catlin, and David Clements are held and firmly bound unto Julius Gerson in the full and just sum of three hundred dollars, to be paid to the said Julius Gerson, his certain attorney, executors, administrators, and assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated this 28th day of July, in the year of our Lord one thousand eight hundred and seventy.

Whereas lately at a circuit court of the United States for the
442 fourth circuit and district of Maryland, begun and held at the city of Baltimore, on the first Monday in November, inthe year of our Lord eighteen hundred and sixty-eight, in a suit depending in said court, wherein Julius Gerson was complainant and Joel C. Slaughter, administrator of Henry B. Slaughter, was defendant, decree was rendered in said court against the said Joel C. Slaughter, administrator of Henry B. Slaughter.

And the said Joel C. Slaughter, administrator of Henry B. Slaughter, having prayed an appeal, and a citation directed to the said Julius Gerson, citing and admonishing him to be and appear at a Supreme Court to be holden at Washington the first Monday in December next.

Now the condition of the above obligation is such, that if the said Joel C. Slaughter, administrator of Henry B. Slaughter, shall prosecute his said appeal to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

JOEL C. SLAUGHTER. [SEAL.]
JOS. CATLIN. [SEAL.]
DAVID CLEMENTS. [SEAL.]

Sealed and delivered in presence of—
JOHN W. PALMER.

443 MARYLAND, *Kent Co., sct:*

I, Jesse K. Hines, clerk of the circuit court for Kent Co., do hereby certify that Jos. Catlin and David Clements, who have signed the above bond, would be received as sufficient surety on a like bond in this court.

CIRCUIT COURT FOR KENT COUNTY. SEAL. MARYLAND.

Witness my hand and the seal of the circuit court for Kent County.

JESSE K. HINES, *Clerk.*

444 (Endorsed:) "Bond approved August 4th, 1870. William F. Giles."

445 The United States of America to Julius Gerson, greeting:

You are hereby cited and *administered* to be and appear at a Supreme Court of the United States to be held at the city of Washington on the first Monday in December next, pursuant to an appeal filed in the clerk's office of the circuit court of the United States for the fourth circuit, in and for the Maryland district, wherein Joel C. Slaughter, administrator of Henry B. Slaughter, is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against him, the said Joel C. Slaughter, administrator of Henry B. Slaughter, should not be reversed, and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal this fourth day of August, in the year of our Lord one thousand eight hundred and seventy.

WILLIAM F. GILES. [SEAL.]

Service acknowledged this 3 day of September, A. D. 1870.

ROBERT C. BARRY.

446

447 I hereby certify that the aforegoing is truly taken from the record of proceedings of the circuit court of the United States for the fourt' circuit and district of Maryland.

It testimony whereof I have hereto subscribed my name and affixed the seal of the said circuit court this third day of September, in the year of our Lord 1870.

[SEAL.]

JAMES W. CHEW,
Clerk Circuit Court.

(Indorsement on cover:) No. 313. Joel C. Slaughter, adm'r of Henry B. Slaughter, dec'd, appellant, vs. Julius Gerson. Maryland C. C. U. S. Filed 28 November, 1870.

IN THE

Supreme Court of the United States.

JOEL C. SLAUGHTER.

ADMINISTRATOR OF

HENRY B. SLAUGHTER, Deceased,

APPELLANT.

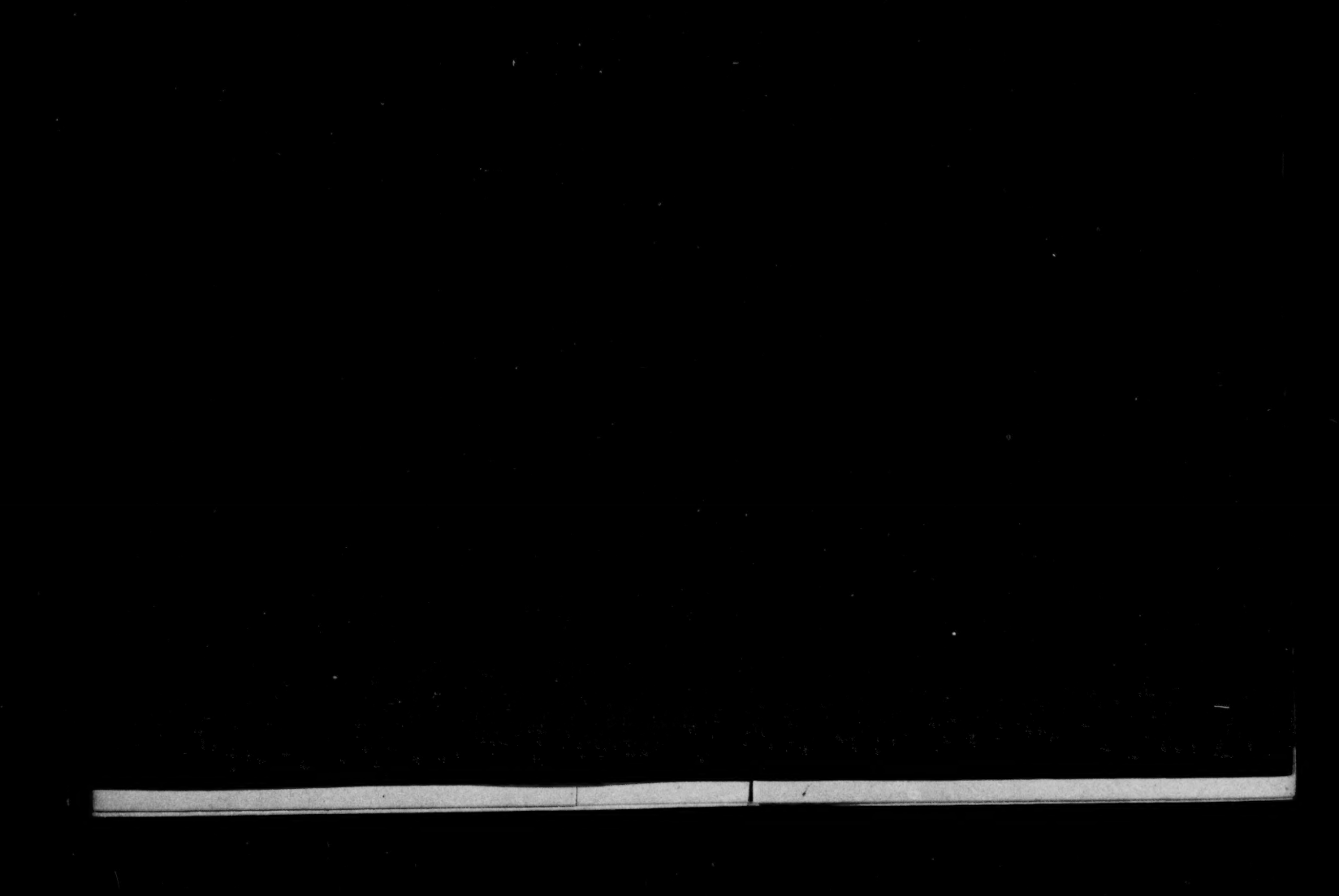
VS.

JULIUS GERSON,

APPELLEE.

Appeal from a Decree of the Circuit Court of the United States for the District of Maryland.

Mr Ashley for Appellants



IN THE

Supreme Court of the United States.

JOEL C. SLAUGHTER.

ADMINISTRATOR OF

HENRY B. SLAUGHTER, Deceased,

APPELLANT.

VS.

JULIUS GERSON,

APPELLEE.

Appeal from a Decree of the Circuit Court of the United States for the District of Maryland.

Henry B. Slaughter in his life time executed mortgages upon two steamboats, the George Law and the Chester, to secure the payment to the appellee of the sum of twenty-five thousand dollars; after the said sum had become due, and being unpaid, the appellee filed a bill in Equity, in the Circuit Court of the United States for the Maryland District, praying a decree for the sale of said steamboats.

The steamboat called the George Law, is called in the correspondence, and in the testimony, the Minna. It was purchased, by Mr. Slaughter from the appellee, at the price of $40,000. The other boat, the Chester, was previously owned by said Slaughter. Of said price, $15,000 was paid in cash; and the mortgage was given for the balance of the price of the Minna.

The answer of the original defendant, Henry B. Slaughter, commences at page 8; and he impeaches the bond and mortgage, as having been obtained from him by deceit and fraud. Condensed, the answer states, that defendant had established a line of steamboats from Baltimore to various landings on Chester river; and that no boat, drawing more than three and a half feet of water, could reach the principal landings on the route, unless in case of an extraordinary high tide. In addition to the two boats, which he already had, on said route; and which were of light draught, he desired to procure another boat, to be placed on said route, of like draught. Being referred to Mr. Hazard, an agent of the plaintiff, and who, as ship broker, had the George Law, otherwise called the Minna, for sale, the defendant addressed to him a letter of enquiry, to which he received an answer, (at page 13,) in which it is stated, as a fact, that the draft of water was "3½ feet, speed 16 miles per hour."

Defendant went on to New York, where the boat was lying; and had a personal interview with Mr. Gerson; to whom, he explained the character of the route, and that it was an indispensable requirement, that the boat should not draw more than 3½ feet of water; that in consequence of the surging and splashing of the water, where the boat was lying, it was impossible to determine the draught, by measurement, with any accuracy, or even with any approximation to certainty; that complainant then represented and stated, as matter of fact, that said boat, under any circumstances, would not draw more than 3½ feet of water, and he called on persons present to witness, that he guaranteed that the boat would not draw more than 3½ feet of water; that defendant, confiding in this representation, concurring, as it did, with the representation, in this respect, of Mr. Hazard, agreed to purchase the boat, at the price of $40,000. The purchase was made, at New York, on the 30th March, 1864; that by the terms of the contract, the sum of $15,000 was to be paid, in cash, and the defendant returned to Maryland, and raised that sum, and went back to New York; and on 12th April, 1864, made the cash payment, and executed the bond and mortgages; but before making such payment, and before the execution and delivery of said bond and mortgages, he again adverted to the draught of water, stating, in effect, *that*

he would not have the boat, at any price, if she drew more than that depth; and that complainant, thereupon, said, that if the boat drew more than 3½ feet, he would not merely let defendant have the boat for one thousand dollars, but would give her to him for nothing; and that defendant, thus re-assured, and relying, as he confidently did rely, on the statement and representations of the complainant, so often and positively made, and in the belief, that they were true, made the cash payment, accepted the bill of sale, and executed and delivered the bond and mortgages. The answer then avers, that the boat, when only half laden, drew upwards of five feet of water; and that in order to deliver passengers and freight, at Queenstown, the principal landing on said route, it was necessary to use another vessel; and, at the distance of two miles from said landing, to transfer the passengers and freight, intended for that place, into said other vessel, to transport them to the said wharf. On the first attempt to reach the wharf at Queenstown, the steamboat grounded in five feet water. This was on the 25th April, 1864. As soon as precise information was obtained, the original defendant wrote to the complainant, on the 30th of the same month. That letter is found on page 14, and is marked Exhibit H. B. S., No. 4. No reply having been made to this letter, another and fuller letter was written to complainant.—page 14, Exhibit No. 4. No reply was received to either letter, until the receipt of complainant's letter of 20th May, 1864,.—(p. 16, Exhibii H. B. S., No. 5.) Mr. Slaughter then went to New York, and there consulted counsel, who addressed to complainant a communication, dated 8th July, 1867, (page 16, Exhibit No. 6,) to which a reply was received, declining to cancel the contract. The answer, also, stated, that in addition to the fraud and deceit, practised on him, by the false and fraudulent representations in regard to the draught of the said steamboat, there were other representations, in relation to said boat, as to the cost of the repairs, recently put on said boat, which, to the knowledge of said complainant, were false and fraudulent; and which, he knew, were believed by defendant to be true.

A cross bill was filed, by Henry B. Slaughter, praying the rescission of the contract of sale, the cancellation of said bond and mortgages, &c.; but which is not incorporated in the

Record.—(page 17.) A commission was issued to take evidence in New York to be used in both cases, (pp. 17 and 18,) and a commission was subsequently issued to take evidence in Baltimore. Henry B. Slaughter having died, pending the suit, both were revived.—(pages 18 and 19.)

It was admitted, that insurances on the steamboat, had been effected, by Slaughter, for the security of Gerson, on which the premium of $1,427.50 was paid by Slaughter. A great deal of evidence was taken, on various points; a summary of which will here be stated:

1. As to the representations made, as to draught of water: Mr. Counsellor, (page 28,) in answer to the 54th interrogatory, after having testified as to several interviews, previously had with Mr. Hazard; and as to an interview, at which the complainant, (Mr. Gerson,) Mr. Hazard, the witness, and Henry B. Slaughter were present, said "the whole thing, as stated before, was talked over, in regard to the correspondence, the price of the boat, her capacity, and in a general way, as steamboat men would talk, I suppose. Mr. Slaughter was a stranger, and he wanted to have some talk with Mr. Gerson, in regard to what Mr. Hazard had been corresponding with him, in regard to the boat."

"55*th Int.*—What was said at that interview?"

"*Ans.*—Mr. Hazard repeated, what had taken place between himself and Mr. Slaughter, in regard to the boat. * * * Mr. Slaughter explained to Mr. Gerson in regard to the draft, the speed of the boat. Mr. Gerson said she would answer in every particular for his route; I think he said was just the thing; that she only drew three and a half feet, and wouldn't only run 16 miles an hour, but would run 18 miles an hour. * * * * I think Mr. Gerson assured him, on that interview, that if she drew any more water than had been named, that he would give him the boat for a thousand dollars. Slaughter seemed to be so anxious on that point—he was, that seemed to be the leading point with him—that I suppose called out the remark from Mr. Gerson; that seemed to be the great burthen on his mind, to get just such a boat as he wanted."

"56*th Int.*—What did Mr. Slaughter say at that interview, and what did Mr. Gerson say in reply?"

Ans.—Mr. Staughter said the reason why he was so particular about the boat was that she would be worthless to him, for any other route, this being the only route he had. He wanted to keep off an opposition—that was what he wanted a boat of that capacity for—there was an opposition threatened, and he wanted something that would beat it. Mr. Gerson only repeated what he had said before, that she would run faster than he wanted, and she would run anywhere with 3½ feet of water, and said that he would not only give him the boat for a thousand dollars, but would give her to him if she drew any more water. I think that was the words. Mr. Slaughter replied, that he didn't want his boat for nothing; that if she drew any more he might have to give her away. He better be careful what he said. I don't think now of anything more he said. I didn't keep any minutes of our conversation. It didn't occur to me that there was anything intended to deceive Mr. Slaughter, or that I would ever be called on as a witness. I never had such an idea as that.

"86*th Int.*—At this interview was there any thing said about the draft of the vessel; and, if so, what was it?"

Ans.—Mr. Slaughter again said that he was purchasing, or making the negotiation, solely on the honor of a stranger, I think he said, and he said hoped he wasn't deceiving him.

87*th Int.*—Who do you mean by the last "he?"

Ans.—Mr. Gerson.

88*th Int.*—What did Mr. Gerson say to that, if anything?

Ans.—Mr. Gerson again said, what do you mean, Mr. Slaughter? Mr. Slaughter said, I mean the draft of the boat. Mr. Gerson said, Mr. Slaughter, my God, I have told you fifty times about the draft of the boat. You ought to be satisfied; you get a cheap boat. Mr. Slaughter said he didn't want to get a cheap boat. He should rather pay his price for her than to take her for a thousand dollars. That money, the $50, was paid at this interview, I believe. The time was set for him to come and complete the agreement.

88*th Int.*—Was there anything said at that interview about their not being able to make a measurement of her draft of water; and, if so, what was it?

Ans.—That was spoken of. Mr. Slaughter said he wished it was so, that he could measure the boat, but there was no way he could; being lame he couldn't get around. I don't recollect the reply that was made by Mr. Gerson.

On the same point, the evidence of Mr. Richardson, (the lawyer who prepared the papers,) is very full.—(page 36.) He corroborates all that Mr. Counsellor said, in regard to representations as to the draught of the boat, as made by Mr. Gerson himself, next immediately before the execution of the papers. So, also, the testimony of James Brannan, page 136, answer to 11th interrogatory; the testimony of Joel C. Slaughter, page 141, answer to 11th interrogatory; the testimony of Capt. Robinson, page 151, latter portion of answer to 5th interrogatory.

In opposition to this positive affirmative evidence, the evidence on the part of Mr. Gerson is vague and unsatisfactory.

Mr. Hazard was, in the transactlon, the broker and agent of Gerson. He received $400, as commissions.

In his letter to Mr. Slaughter, (p. 13,) he stated, "draft 3½ feet water." On his examination, in answer to 14th question (p. 55,) he read from his pocket diary "3 to 4 feet water." Why was he so specific in his letter to Mr. Slaughter? Because he had learnt from Joel, that the draught must not exceed 3½ feet.

Mr. Gerson, in a letttr to the counsel for Mr. Slaughter, p. 39, denies, indeed, that he stated to Mr. Slaughter that the boat "did not or would not draw more than 3½ feet of water, *when fully loaded.*" But he says, "what I stated and represented was simply, that her captain and engineer had informed me that her draught was 3½ feet."

And even Mr. Hazard recollects, that Mr. Gerson said, that Slaughter should have the boat for $1,000, if she drew more water than represented—differing, however, from all the other witnesses, in substituting 4 feet, instead of 3½ feet. Mr. Louis Stein, one of the witnesses called by Gerson, page 112, says, he recollects a remark of Mr. Gerson, (in the presence of

himself, H. B. Slaughter and Mr. Counsellor,) "that Captain Crawford had told him that the draft of the Minna was three feet and six inches, and Captain Crawford was a reliable man."

The representation was made, that a new boiler had been put in the Minna. It is so stated in Mr. Hazard's letter to Henry B. Slaughter—page 13. The following are the words used: "has just had a new boiler put in, which is completed to-day; has been thoroughly over-hauled and new painted, and is considered by those, that are competent judges, to be better than when she was launched." And on his examination, Mr. Hazard, in answer to the 15th interrogatory, (page 55,) read from his pocket diary as follows: "Steamer Minna, $36,000 as she is, or $40,000, with new boiler." Shewing that of the price, $4,000 was added for the alleged boiler.

Mr. Charles Reeder, an experienced steam engine builder and machinist, was examined on this point. His evidence will be found on page 133. As early as May, 1864, he made some repairs to the machinery; made further repairs in October of that year; and in Jannary, February and March, 1865, the boiler was thoroughly examined. He says "the shell of the boiler had the appearance of having been surrounded by fire, or having been in a vessel, or building, that had been burnt." He added that, in his judgment, the boiler was 4 or 5 years old; and that the steam chimney indicated, at least, 4 years. The repairs, then made, cost $4,700, and he added that even when thus repaired, *the boiler was not as good as new*, and was not of half the value of a new boiler—page 134. He further stated, page 135, that the boiler was enclosed, by a boiler deck, and that it was not practicable to examine the boiler, until that deck was removed. This was done, at the time the steam chimney was put in, in 1865. See, also, on this point the evidence of James Brannan, page 136; and the evidence of Joel C. Slaughter, page 146.

Evidence was introduced, tending to show, that the purchaser had knowledge of the actual draught of water. The evidence of George W. Anderson, page 156, was relied on; but he stated, that the water, at the time he made an attempt to measure the draught, was agitated, rough and swashing. He

88*th Int.*—Was there anything said at that interview about their not being able to make a measurement of her draft of water; and, if so, what was it?

Ans.—That was spoken of. Mr. Slaughter said he wished it was so, that he could measure the boat, but there was no way he could; being lame he couldn't get around. I don't recollect the reply that was made by Mr. Gerson.

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And even Mr. Hazard recollects, that Mr. Gerson said, that Slaughter should have the boat for $1,000, if she drew more water than represented—differing, however, from all the other witnesses, in substituting 4 feet, instead of 3½ feet. Mr. Louis Stein, one of the witnesses called by Gerson, page 112, says, he recollects a remark of Mr. Gerson, (in the presence of

himself, H. B. Slaughter and Mr. Counsellor,) "that Captain Crawford had told him that the draft of the Minna was three feet and six inches, and Captain Crawford was a reliable man."

The representation was made, that a new boiler had been put in the Minna. It is so stated in Mr. Hazard's letter to Henry B. Slaughter—page 13. The following are the words used: "has just had a new boiler put in, which is completed to-day; has been thoroughly over-hauled and new painted, and is considered by those, that are competent judges, to be better than when she was launched." And on his examination, Mr. Hazard, in answer to the 15th interrogatory, (page 55,) read from his pocket diary as follows: "Steamer Minna, $36,000 as she is, or $40,000, with new boiler." Shewing that of the price, $4,000 was added for the alleged boiler.

Mr. Charles Reeder, an experienced steam engine builder and machinist, was examined on this point. His evidence will be found on page 133. As early as May, 1864, he made some repairs to the machinery; made further repairs in October of that year; and in Jannary, February and March, 1865, the boiler was thoroughly examined. He says "the shell of the boiler had the appearance of having been surrounded by fire, or having been in a vessel, or building, that had been burnt." He added that, in his judgment, the boiler was 4 or 5 years old; and that the steam chimney indicated, at least, 4 years. The repairs, then made, cost $4,700, and he added that even when thus repaired, *the boiler was not as good as new*, and was not of half the value of a new boiler—page 134. He further stated, page 135, that the boiler was enclosed, by a boiler deck, and that it was not practicable to examine the boiler, until that deck was removed. This was done, at the time the steam chimney was put in, in 1865. See, also, on this point the evidence of James Brannan, page 136; and the evidence of Joel C. Slaughter, page 146.

Evidence was introduced, tending to show, that the purchaser had knowledge of the actual draught of water. The evidence of George W. Anderson, page 156, was relied on; but he stated, that the water, at the time he made an attempt to measure the draught, was agitated, rough and swashing. He

said he made it, amidship, 4 feet, 6 inches, and 3½ feet under the rudder. On his cross-examination, page 160, this witness, testified as follows:

2*d additional cross-int.*—In your former examination you stated that Henry B. Slaughter made no reply to your remark; was any reply made by Captain Crawford? and if yea, state what he may have said at the the time.

(Objected to.)

Ans.—I said that I did not think Mr. Slaughter made any reply, nor do I, but Captain Crawford did. Captain Crawford said that she did not draw the draught of water that I measured, and also told me to go aft and measure, which I did. When I went aft and measured under her rudder, I found her to draw three feet, six inches under her rudder. When I measured I did not go down to the water and measure with a rule. I just hooked her with the square and guessed. I guessed the height of the sea. I took the highest point of the sea, and the lowest, and guessed at half the difference, which I thought would be a fair measurement. I also tried to measure her forward, and found her to come up so sloping, that I could not get the measurement, although I put the rod down.

3*d additional cross-int.*—What was the condition of the water at the time?

Ans—The water was rough.

4*th additional cross-int.*—After yon had made the measurements, or attempted measurements aft and forward, did you report the result of your efiorts to Mr. Slaughter and Captain Crawford, or to either of them? and if you did, please state all that was said on the occasicn.

Ans.—I told Capt. Crawford that I made her draw three feet six inches aft under the rudder, as near as I could come at it; and then asked him if the rudder was down flush with the shoe; he said it was. I thed asked him if she was straight on the keel, and he answered that she was.

5*th additional cross-int.*—Was Henry B. Slaughter present when this conversation took place between you and Captain Crawford?

Ans.—I think he was, but cannot say positively.

And Captain Crawford (who was a witness for Gerson,) being called to contradict Anderson, in a portion of his evidence, given on cross-examination, acknowledged, page 162, that Anderson had asked him *if she was straight on the keel; and that he had told him that she was built straight on the keel.* This same witness had been previously examined, on behalf of Mr. Gerson, and then stated, in reference to this measurement, that he had told them, (page 69,) meaning H. B. Slaughter, his son Joel, and Capt. Robinson, "you can't measure her, accurately, there. I told them it was impossible to measure a boat, when she was lying at a dock, where the sea was swashing all the time, by a ferry."

During the progress of the cause, Receivers were appointed, who took charge of the Minna (the George Law,) and sold it, and brought the net proceeds into Court; and deposited the same in the Registry of the Court to the credit of the cause. The amount, so deposited, was $7,902.76. By arrangement, this amount was withdrawn from the Registry and divided equally, between Joel C. Slaughter, and his individual capacity, and Julius C. Gerson; each of them giving security to the other, to pay over the amount so received, to the successful party.

The cause was submitted, and the Judge passed a decree, which will be found in page 166 of the Record. By that decree, Joel C. Slaughter, *as administrator of Henry B. Slaughter* was required to pay to the complainant, Gerson, $3,951.38, (being one-half of said sum of $7,902.76 so drawn out,) with interest from 2d May, 1868, as per agreement of said last mentioned date; and the decree directed the sale of the steamboat Chester, &c.—By the proceedings it appears, that after crediting the $15.000, paid in cash at the time of the purchase of the Minna, and the proceeds of both boats, there were still due to Gerson, on account of said purchase, $19,555.84.

From said decree, this appeal has been taken.

The appellant will maintain in argument the following points:

1. The evidence in the cause fully sustains the averment, that the bond and mortgages were obtained, by false and fraudulent

representations on the part of the vendor and his agents, respecting the draught of the boat, and respecting the boiler. All knew that Mr. Slaughter wanted a boat to ply, on a specified route, drawing, when laden, *not more than* 3½ feet water. *With this knowledge*, Mr. Hazard gives this precise measure of draught, in his first letter; although, in his diary, the entry was "between 3 and 4 feet." Captain Crawford knew well, that the draught greatly exceeded 4 feet; and yet, when Anderson announced 4 feet, 6 inches, as the result of his measurement between the wheels, he said it was not practicable to make a reliable measurement, as the water was swashing; and he sent Anderson to measure at the rudder, where the water was actually 3½ feet, and when Anderson enquired whether the keel was straight, he replied that she was built on a straight keel. Now Mr. Gerson spoke of Captain Crawford as a reliable person.

The representation, as to the boiler, was false, and, in any view that may be taken, was necessarily fraudulent. This Court has expressly adopted the doctrine, that "when a party asserts what he knows is false, or does not know to be true, to anothers loss, and his own gain, he is guilty of a fraud; fraud in fact, if he knows it to be false; fraud in law, if he does not know it to be true. Philadelphia, Wilmington and Baltimore Railroad Co. vs. Howard, 13 Howard. The boiler was not new; but was old and damaged.

2. The doctrine of caveat emptor ought not to be applied to this case. In the position in which the boat was lying, near the landing of a ferry boat, and in a rough and agitated sea, it was *impossible* to make an accurate measurement of the draught of water. And as to the boiler, it was so covered up, that, until the boiler-deck was removed, it was not practicable to examine its condition. Besides this, the rule of caveat emptor, however potent in actions *ex contractu*, is, comparatively, of small force in an action based on fraudulent misrepresentations.

Williamson vs. Alanson, 2 East, 446.
Jones vs. Bright, 5 Bing., 533.
Brown vs. Eddington, 2 M. & G., 279.

Shepard vs. Pybus, 3 M. & G., 867.
Gallagher vs. Waring, 9 Wend., 20.
Howard vs. Hoey, 23 Wend., 350.
Thayer vs. Turner, 8 Met., 550.
Hazard vs. Irving, 18 Pick., 95.
Harrington vs. Strattou, 22 Pick., 510.
Misner vs. Granger, 4 Gilman, 69.
1 Smith's Leading Cases, notes to Chander vs. Lopus.
2 Smith's Leading Cases, notes to Pasley vs. Freeman.
Fuller vs. Wilson, 3 Q. B., 58.
Evans vs. Coller 5 Q. B., 804.
Fitzsimmons vs. Joslen, 21 Vermont, 130-140.
Flight vs. Booth, 1 Bing. N. C., 370.
, 2 Ross' Commercial Law, 441.
Flanders on Maritime Law, 62-67, and cases cited in Chapter 3.

3. If there was no fraud, legal or moral, on the part of Gerson, or his agent, still, it is clear, from the testimony, that Slaughter would not have purchased the boat, at any pricer if he had known that she would not answer the purpose fo, which he wished to procure a boat. Upon the hypothises, that Gerson was acting honestly, the case presented is one of mutual mistake.

A vendor is bound to know that he has that, which he possesses to sell.

Allen vs. Hammond, 11 Peters, 63.
Hitchcock vs. Giddings, Daniel's Exchеq., 1.
Smith vs. Richards, 13 Peters, 27.
Ainslee vs. Medlicott, 9 Ves., 21.
Fulton vs. Rosewell, 5 Johns. Eh. Rep., 174.
1 Story's Eq. Jur., Secs. 201, 202.
Joynes vs. Statham, 3 Atk., 388.
Batten on Contracts, 255.

4. But, in any event, the case, on the part of the purchaser was one of great hardship.

The price which he agreed to pay was double the value of the boat. This is the statement of Captain Crawford himself—(pp. 68, 76.)

He contracted for a new boiler, and paid, as part of the price $4000, in considerationthereof; whereas he got the boat with an old boiler, and which was repaired at a cost to him of $4,700, and, when repaired, was not worth half as much as a new boiler.

He contracted for a boat, that would not draw over 3½ feet of water; and this boat grounded in water, where the shortest depth was 5 feet 4 inches, and, on the other side over, 6 feet.

He promptly offered to return the boat, and to cancel the contract. This was refused by Gerson.

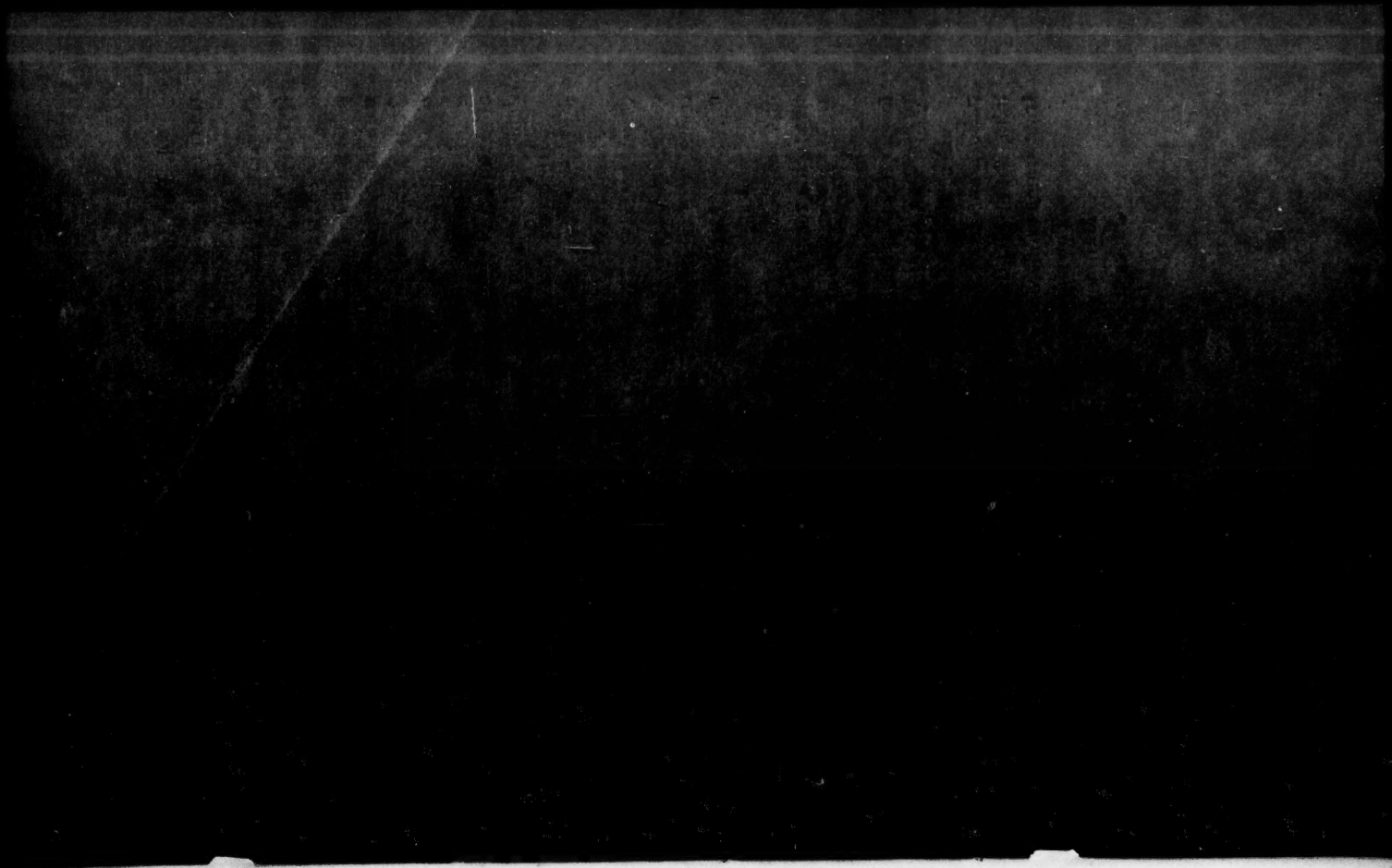
He paid $15,000 of the price; and the boat itself, and the Chester also, have been sold, and the proceeds have been received by Gerson; and an additional sum of more than $20,000, inclusive of interest, is still demanded from him, over and above expenses incurred in various ways.

Coming, as he has done, into a Court of conscience, he submits himself to its power to make him do what is right, or to be left to his remedy at law. He might have sued on the bond. He might, by giving security, have taken the vessel by replevin. Foreclosure of a mortgage is in the nature of a specific performance of a contract. The views, presented in the case of Willard vs. Taylor, 8 Wall, 564, are here applicable.

See, also, Adams' Equity, 85, where it is said, that specific performance will be refused, where the defendant has, by mistake, not originating in mere carelessness, entered into a contract framed differently from his own intention.

Townshend vs. Strangroom, 6 Ves., 328.
Malins vs. Freeman, 2 Keen, 25.
Jackson vs. Ashton, 11 Peters, 229.

WM. SCHLEY,
For Appellant.



Supreme Court,

OF THE UNITED STATES.

JOEL C. SLAUGHTER, Admr., &c.,
Appellant,

vs.

JULIUS GERSON,
Appellee.

Abstract and Brief for Appellee.

The opinion of the Court recites that the appellant's intestate filed a cross bill for a decree to set aside the sale of the steamer on the ground of fraud and deceit, and for a return of his cash payment, and to have the mortgage declared void; to which the defendant (appellee) filed an answer directly responsive to all its allegations of fraud and deceit, and positively denying the same. (Appeal Book, folios 118, 119.) The conslusion of the opinion is: "And I will also sign a decree dismissing the cross-bill filed by Slaughter, with costs to defendant" (fol. 426).

The evidence was taken in both the cases and read by both in stipulation. Upon the death of the appellant's

intestate, the cross-bill was revived by his administrator (fols. 58, 59). The opinion of the Court recites a petition by the appellant for a Receiver, which also shows that the cross-bill was revived (fol. 419). The appellant's abstract says: "A cross-bill wss filed by Henry B Slaughter, pray ing the rescission of the contract of sale, the cancellation of said bond and mortgage, &c.; but which is not incoporated in the record" (pp. 3 and 4).

There is no appeal from the decree dismissing the cross-bill.

A certified copy of the cross-bill herewith exhibited, shows that the answer thereto was required to be upon oath. Thus this answer became part of the evidence for the original complainant. The appellant has present a copy of the answer to the cross-bill, which (as it was obtained merely for convenience of his counsel) does not include the *jurat*. This answer is omitted from the record, but belongs on it as part of the evidence, notwithstanding there is no appeal from the decree dismissing the cross-bill, to bring up the cross-bill and answer as material to such appeal.

The answer to the original bill (not sworn to), admits the making and delivery of the bond and mortgages, and by way of new matter, makes the following allegations: I. That no steamboat drawing more than three and a half feet of water could reach one of the wharves on respondent's route (Queenstown) unless in an extraordinary high tide (fol. 21). II. That William H. Hazard, as agent for owner, wrote respondent a letter dated March 12th, 1861, describing the steamboat in question, and putting her draft at three and a half feet; and respondent says: "It" (the draft) "is so stated, without any qulification whatever; clearly importing that said steam-

boat, when fully laden and in service, did not draw more than three and a half feet of water" (fols. 22, 23). III. That in consequence, respondent visited New York City, and, accompanied by his son Capt. Joel C. Slaughter, and Thomas M. Robinson, a ship-carpenter, and a friend, Mr. Counsellor, proceeded to examine certain boats for sale, amongst them the "George Law" (Minnie) (fol. 23). IV. That he then first met complainant, and explained to him the character of the route, and told him that a boat of a greater draft than three and a half feet would not be suitable for the service; and again, that he would not have her at any price if she drew, when laden, more than three and a half feet; and alleges further, that he would not have purchased her at any price, if he had not believed that she would not draw, when fully laden, more than three and a half feet of water. The particular fraud and deceit alleged against the appellee is, that he stated that her draft, when fully laden, would not exceed three and a half feet, and if it did, respondent might have her for $1,000 or for nothing (fols. 23–27.) V. The answer further alleges that, besides the representation as to the draft of the boat, the appellee made other false and fraudulent representations, "as to the speed of said boat and the cost of repairs," but does not set them forth (nothing said about any new boiler), and does not say that they affected the purchase (fol 31.)

The answer does not pray any cross relief, but merely that the bill be dismissed (fol. 34); but at folios 30, 31, the intention to file a cross-bill (if necessary) for rescission of contract, cancellation of bond and vacating of the mortgages, is announced, with prayer that the Court will impound the bond and mortgages filed with the original

bill, until such cross-bill shall have been filed, heard and decided.

As to the value of the boat, the answer simply alleges, that the respondent believed the price at which he purchased her, $40,000, to be "something more than her real value" (fol. 24).

The appellee made a bill of sale of the steamboat, giving a detailed description of her, but saying nothing as to her draught. This bill of sale was drawn by the attorney of the purchaser, a counsellor-at-law. (See Opinion, fol. 420; answer, fol. 28, and Richardson's testimony, fols. 90, 94.)

The respondent's demand for the rescission of the contract, Exhibit H B. S., No. 6, fol. 41, is limited to the ground that prior to the sale, the seller represented and stated to the buyer that the boat "did not and would not draw more than three and one-half feet of water when fully loaded," the buyer stating distinctly to the seller the use for which she was wanted and that "he did not want and would not purchase her if she drew more than three and a half feet of water;" and that the representation was "untrue." The seller, in answer to this demand (fol. 99), says, he did not state that the boat "did not or would not draw more than three and one-half feet of water when fully loaded;" that what he did state was, that her captain and engineer had informed him (the seller) that her draught was three and a half feet, and that Mr. Slaughter or his son, Capt. Joel C., could try it for themselves, and that seller did not say that said draught was represented to be her draught when fully loaded, but when not loaded. The reply to demand further stated, that Mr. Slaughter was informed by the

captain of the steamboat, when examining her with a view of purchase, that she drew three and a half feet light (*i. e.*, not loaded) at ends; that Mr. Slaughter was also shown how far she was coppered up, three feet and nine inches, showing three inches of her copper above the water; and denies that Slaughter told seller the places he intended to trade at or that he did not want and would not purchase if she drew more than three and a half feet; also denies any warranty or representations in the nature of warranty, to the effect stated in the demand, and declines compliance.

Slaughter writes to Gerson after the boat got to her route (April 30th, 1864), that she would have suited, except for her draught (fol. 36), and says, "I do not make any charge against you for deceiving me in the depth, for I really believe you thought what you said" (fol. 36). Slaughter wrote again May 10, 1864, (fol. 37), retracting this admission for reasons stated, and Gerson replied (fol. 41), "I am sure that I hardly expected to hear from you any complaint in regard to the 'Minna,' and when I showed your letter to Capt. Crawford and others, they said you were manifestly mistaken, as you had seen enough of her when here to know what you were bargaining for. I, myself, treated you conscientiously, and told you that my information came from captain, engineer, etc., etc."

In the same letter of May 10th, Slaughter writes: "There was one thing I forgot to name to you in mine of 30th; that was the understanding that I was to have what the 'Minna' took on your route after I bought her; this I was to have had, but after I left you would not let Joel C. Slaughter have it. This matter I want straightened."

The evidence shows—

First.—As matter of fact, that it was not indispensable that a boat on the route should be able to make Queenstown landing. The "Arrow," already on the route, drew thirty-three or thirty-four inches unloaded (fol. 400); witness could not say positively what the "Chester" drew (*ib.*) The "Chester" and the "Arrow" were not at all times able to make the landings on the Chester river, in which cases the passengers were taken off in small boats and the freight landed at other wharves or kept on the boats until the proper wharf could be reached; the "Arrow could get in with any common tide unless heavily loaded; the "Chester" could not always get in to Queenstown (fols. 404, 405; fol. 377.) The "Minna" could make all the landings except Queenstown, and a few times Crumpton; and Queenstown at full tide. James Brannan, in his testimony given April 9th, 1868, says the "Minna" ("George Law") was put on the Baltimore and Chester river route in April, 1864, soon after coming from N. Y. (fol. 351); and the testimony of Joel C. Slaughter, the appellant, taken April 17th, 1868, shows (fols. 374-378) that she had then been kept on the same route during the intervening four years, was meanwhile partly burned (Anderson's testimony, fol. 396), and at the Receiver's sale in this suit was bought by the successors of the Slaughter line, the appellant being one-fourth owner in the succession, rebuilt by them in spring of 1866 (joiner's work principally), repairs costing $22,000—"some repairs made to boiler and engine;" and, at the time of testifying, employed on the same route between Baltimore and Crumpton—her draught lightened in rebuilding only four inches—and able to reach Queenstown wharf only about half the time. Henry B. Slaughter's letter to appellee of April 30th, 1864, complains,

that she drew between five and six feet (fol. 39); lightening her draft four inches would make her draw nearly five feet at the least; and her being kept on the route four years and re-purchased by new owners, including the appellant, for the same route, and rebuilt at an expense of $22,000, and continued on the same route, although not making Queenstown landing more than half the time, shows that H. B. Slaughter either misrepresented her draught to get a rescission of the contract, or never made the extreme representations he sets up as made by him relative to the necessary draught of water for his route; or, if he did, that they were themselves deceptive and untrue, it not being an indispensable requisite for a boat on his route that she should only draw three and a half feet when fully laden, or true that if she drew any more she would be worthless for his purpose.

Second.—The evidence shows that Hazard was not the appellee's agent, but the agent of H. B. Slaughter. The statement of the witness, Counsellor (fols. 62, 63), to the effect that Hazard was Gerson's agent, is reckless, unsupported and contradicted by Hazard himself, (see Hazard's testimony fol. 132), that Feb. 27th, 1864, he advertised several steamboats for sale in the *N. Y. Journal of Commerce* (neither of them, the "Meta" or "George Law," *alias* "Minna"), and (fol. 134), received in answer a call from Joel Slaughter and friend. Joel said he "wanted a side-wheel passenger steamboat, light draft, to run a route." The boats advertised not suiting, witness read to Joel Slaughter, from his memorandum-book (comp. fols. 137, 138), description of the "Meta," Minna" and "Stamford." Joel said he had just been looking at the "Stamford," and liked her very much, but her price, $55,000, was too high; (no objection made to her draft, which was 4 feet, fol. 138); the "Meta," draft 3 feet 2,

Joel said was too small, and that the "Minna" suited him better than any of them. Up to this time Hazard had no acquaintance whatever with Gerson (fol. 141): in trying to find a steamboat for a party who wanted one, he "came across" the "Meta," "Minna" and "Stamford," and his clerk got the descriptions and owners names, and Hazard had no authority from any one, only as his man had procured the descriptions and prices, he knew the boats could be bought and were for sale (fols. 139–141). Joel Slaughter told Hazard, that he, Hazard, could write to Mr. H. B. Slaughter, Crompton, Queen Anne's Co., Md., as Joel was only looking after a boat and it would have to be submitted to H. B. S. first (fol. 135). The next thing was, Hazard wrote to Henry B. Slaughter (fol. 142). Next, Counsellor called on Hazard, saying that he had received a letter from H. B. S. requesting him to call and see Hazard in regard to the "Minna" (fol. 143). Then it was that Hazard read Counsellor the particulars of the boats, and this is the occasion when Counsellor testifies Hazard acted for Gerson. Counsellor swears that at this interview, he and Hazard wrote a joint letter, commenced by Hazard, to H. B. S. (fols. 64, 65); at fol. 146, the same letter is shown to Hazard and he identifies it and says no part was written by Counsellor. This is the letter marked H. B. S., Exhibit 1, dated March 12th, 1864 (fol. 33, 35), which H. B. Slaughter's answer says was written by Hazard, as agent for Gerson, and for which the attempt is to make Gerson responsible. The history of that letter is simply this: Counsellor having called on Hazard in obedience to advice from H. B. S. as above, waited at Hazard's office (49th answer) while Hazard "on Mr. Slaughter's behalf" (50th question and answer) went to Mr. Gerson's and told him that he thought he (Hazard) had a purchaser and asked for the refusal (55th answer, fol. 148) for a few days, promis-

ing to write that day. Gerson said he could charter to the Government, and "provided it was not a pretty sure chance, as he did not care about losing the charter, as the Government seemed to want her very much. He then said he would give me the refusal for a few days or until I heard—I promising to let him know, as I stated before." This refusal meant, according to the custom in New York, that Hazard's party (Hazard says my party) should have the first chance over others within the time mentioned (53d answer). Then Hazard returned to his office (48th answer), Counsellor still there (49th answer) and wrote the letter.

In reply to Int. 49, "Did yon have another interview after that with either Mr. Gerson or Mr. Hazard," counsellor, says—"I had repeatedly with Mr. Hazard, almost daily had communications with him one way or another." The 61st question repeats this answer to Hazard and asks: "Please state how the fact was about this, between the time of this interview and the time when the Slaughters came on to New York, to close the business?" Hazard answers that he recollets of but one interview between him and Counsellor, during the interval; has no reccollection of daily or almost daily communications with him, and his memory is such, as that he thinks he would have recollected it, had the case been so.

Jeremiah Counsellor, the principal witness for the appellant's intestate, is relied upon as giving the details of the first interview between the Slaughter party and Mr. Gerson for the purpose of fixing upon Mr. Gerson the verbal misrepresentations relied upon to avoid the contract.

Beginning with 73d Int. fol. 75, Counsellor is asked about this first interview which Mr. Slaughter (misprinted Counsellor) had with Mr. Gerson; and is asked, (74th Int.), "Before you went to Gerson's store, did you call at Hazard's office? A. I did. (75th Int.) Who was with you? A. Mr. Slaughter and his son, I think. (76th Int.) What was said to Mr. Hazard when you went there? A. I told him Mr. Slaughter was here in a carriage waiting to see him; he went down, got into the carriage, and went to Gerson's." This pretended interview at Gerson's office is described throughout by Counsellor, as the first interview between the Slaughter party and Mr. Gerson, and the one at which the fabulous misrepresentations detailed by Counsellor were made. Joel Slaughter (page 141, fols. 362, 363), says his party took a carriage at the New York ferry, his father being lame, and went direct to Hazard's office, and Hazard went with them to Mr. Gerson's office in Park Place, where they saw Mr. Gerson, and gives his (Joel's) version of the same interview at that time for the purpose of fixing the misrepresentations charged upon Mr. Gerson. Now, it is a vital point that this pretended interview never took place, and all the testimony of Counsellor, and Joel Slaughter about it, goes for nothing. Counsellor, recalled, says (p. 127, fol. 328), in reference to the same interview, "7th ques. How did you happen to meet on this occasion? A. Mr. Slaughter and I took a carriage, and went to Mr. Gerson's, I think; from there we went to find Mr. Hazard over to his place of business; I am not positive whether we went Mr. Gerson's first, or to Mr. Hazard's first; I know I had Mr. Gerson's card, or his address." On cross-examination, Joel Slaughter testifies as follows, with reference to the same occasion (p. 148, fol. 380): "10th cross int. Was the carriage in which your party drove to Mr. Hazard's office, the same in which you after-

wards, on the same day, drove from that office? A. I do not remember; I think that Mr. Hazard went after Mr. Gerson, and he came for us in a carriage; I think I made a mistake the day before yesterday, and that Mr. Hazard went after Mr. Gerson, and he came for us in a carriage, instead of our going for him, since I came to study on it; I think that was the case; the time is so remote that these little things are hard to recollect. 11th cross int. Did your party, on Mr. Gerson's coming for you in a carriage, drive directly to the boat, or preliminarily, to Mr. Gerson's office? A. I think we drove to the boat or to the wharf; I don't remember whether the boat was there or not at the time." Thinks they got to the wharf about 11 A. M. Hazard's testimony explodes the pretended conversations at the first interview at Gerson's office, and also the interview there, itself (pp. 60 *et seq*, fols. 151 *et seq*. Hazard says the two Slaughters, Robinson (the ship-carpenter) and Counsellor came to his office, 192 Front street, and Counsellor proposed to Hazard to get Gerson to come over, on account of H. B. Slaughter's lameness. Hazard left his office, went to Mr. Gerson's, 33 Park place, told him of the lameness and would like to look at the boat. Gerson got a carriage and he and I rode to my office and the two Slaughters, Counsellor, Gerson and Robinson got inside and I rode with the driver, and the party drove from there to the foot of Robinson street, where the "Minna" was lying, and went aboard Mr. Gerson asked the clerk for the captain (Crawford), who had gone up town as a witness and was expected back soon." Mr. Gerson then remarked: "Gentlemen, here is the boat; now you can look for yourselves; telling them to go anywhere they pleased about her. They went around and examined her, and while doing so, Capt. Crawford came on board, and he was introduced to all the gentlemen present. Mr. Slaughter,

the elder, asked some questions about the boiler, and went down into the fire-room to look at them. When he got on deck again and having examined the boat all over, I believe Mr. Gerson asked Mr. Slaughter how he liked the boat. Mr. Slaughter replied that he thought she would suit him, provided the draught and speed were up to the mark. They then had some talk about the draught, Mr. Slaughter thinking she would draw more than four feet water. Mr. Gerson then turned to the captain and asked him if the boat *would draw more than four feet*, as he, Mr. Gerson, *was no steamboat man and left all such things with Captain Crawford.* Captain Crawford then said that he did not think she would *draw more than that nor hardly that.* Captain Crawford said to one of the men, "You measured her when she was on the dock, tell us what she measured? He says, "yes, and she came short of four feet. They still continued talking about the draught, and Mr. Gerson said that if she drew more than four feet he would give them the boat for one thousand dollars, on the strength of what the captain had said, *as he was no steamboat man and got all his infoamation* from his captain." Shortly after, the party agreed to meet at three o'clock and take a trip down the bay in the boat. Mr. Gerson and Hazard walked out to the carriage; Mr. Gerson paid the driver and told him to take the balance of the party to the Merchants' Hotel (where the Baltimore party were stopping), and Hazard left and went to his office. The whole party met again at three o'clock and went down the bay. Captain Crawford testifies that at the above interview, H. B. S. asked him if he knew how much water she would draw (fol. 168). "I told him I did, for I had had her on the dry dock and measured her. I told him that she drew three feet and a half of water on each end. I then told him I thought she drew four feet of water amidships, with her usual coal and

water to make a round trip to Amboy and back. I then took him out on the dock and showed him how high she was coppered up. The copper was three feet and nine inches from the bottom of her keel on her stern post. That copper showed three inches out of water, which they all acknowledged looking at it from off of the dock. That is about all the conversation. There was a good deal said about her draught of water; how much she would draw loaded and how much light."

Captain Crawford further told them that how much she would draw loaded depended on what kind of freight she carried; that she was a very sharp steamboat and might load down to six feet with heavy freight, but the captain did not think he had loaded her over five. H. B. S. said, sometimes there was not more than three feet water on his route. Capt. C. replied then he would be detained, and did not think she would load with peach freight to over five feet two or three inches. Mr. G. said he knew nothing about her draught, except what he was told by his captain, and referred Slaughter to Crawford. Mr. Gerson said he had not seen her on dock, and if he had would not have known her draught. Mr. Gerson's remark about the $1,000 was that he had so much confidence in his captain that if he told anything about the boat that was not so, he (G.) would give S. the boat for nothing or $1,000, or something of that sort. Capt. C. thought it was a joke. H. B. S. and Mr. G. were talking and laughing about it." Mr. Slaughter said, "I don't think the captain would say anything what was'nt so; he don't look like that kind of a man." Capt. C. said if S. purchased the boat it would be a detriment to him (the captain), and gave the reasons (fols. 168–172.).

Mr. Robinson, Slaughter's companion, ship-carpenter,

Anderson

and witness, measured the boat forward and aft and found her to draw three and a half feet, but did not measure amidships. Her copper was somewhat out of the water. Told H. B. S. he thought she drew too much water for the river (fol. 388). George W. ~~Robinson~~ (ship-carpenter, fol. 395, who helped build the "Chester") went on to N. Y., subsequently, with H. B. S. and Joel S., taking a square made by Robinson for the express purpose of measuring the draught of the boat, and measured her by order of H, B. S. with same, and found her to draw three and one-half feet astern, and four feet six inches amidships, and so announced to Henry B. Slaughter who made no reply (fols. 393–395). Something is said in Robinson's testimony and that of this witness, about the roughness of the water, but they got the confessedly correct measurement forward and aft, and that was enough to verify the measurement amidships.

The Court's opinion has the following emphatic language: "Now, one thing is perfectly clear from a careful review of the evidence, and that is, that before Henry B. Slaughter purchased the George Law, he made a most thorough examination of her; tried her speed and measured her draught; and if he did not ascertain her true draught, he had every opportunity to do so." * * "He was put on his guard by the men in his own employ, who measured her, and who reported to him that she measured over four feet."

There was abundant evidence for the appellee that the appellant's theory that describing a vessel as of a certain draught, imports her draught when loaded, is erroneous; and the Court below decides upon the evidence and sound reason, that it means only her draught when unloaded, with her coal and water aboard.

There are two simple facts that take away all color of plausibility from the appellant's claim, that the boat was purchased on the supposition and representatio that she would only draw three and a half feet when fully loaded. The first is, that the Slaughters saw her lying at the wharf unloaded, and showing three inches of her copper out of the water, making her draught (whether at ends or not is immaterial,) three and a half feet unloaded. The second, Joel Slaughter's answer to 21st int., fol. 366: "In all our conversations he (Captain Crawford) always said that she did not draw over three and a half feet of water, with her coal, and water in the boiler, on board." Of course, then, she would draw over three and a half feet loaded, and the entire case of the appellant is swept away; for the only noticeable allegation of fraud is, the alleged representation that she would draw only three and a half feet when fully laden.

Hazard's memorandum, fol. 138, ("$35,000 as she now is or $40,000 with new boiler,") showed clearly that a second-hand boiler, new only as to the *Minna*, was intended, because Charles Reeder, appellant's witness, steam-engine builder and machinist, says, fol. 344, that an actually new boiler, at that time, would have cost nine or ten thousand dollars; Joel Slaughter concurs, because at that time iron and labor were much higher, and there was a tax on the manufacture of boilers, fol. 378. Again, they knew the boiler was second-hand, because Golding, Gerson's engineer, pointed out to Brannan, Slaughter's engineer, a bad leak or crack in the bed plate, and the defective condition of the boiler feed-pump. Brannan asked for defects and witness cheerfully showed them, fols. 206, 207. Brannan testifies for appellant, that he examined the steam-chest, and saw it leaked some, and saw it was not a new boiler, fol. 348.

The evidence proves the extent and value of the repairs to be as alleged to have been represented; and the conditions of a charter-party, dated June 12, 1863, show that the boat was valued at $32,000 dollars, at a date prior to these repairs, and when prices had not culminated, pp. 102–104.

H. B. Slaughter revisited New York after the date of his complaints about the boat, told Hazard he had no fault with her except the draught; that although he had examined for himself he had relied upon what Captain Crawford said more than upon his own judgment. *Wanted to get rid of the boat and told Hazard if he got an offer for her to write to him and he would answer immediately*, fol. 163, *et seq.*

The way Gerson happened to pay Hazard's commissions, was that Hazard wanted them from Slaughter, and S. threatened to break up the sale; upon which Hazard renounced them, protesting that he could collect them if he had a mind to. Gerson asked Hazard if he would be satisfied with such arrangements as he, Gerson, made; Hazard said yes, and that ended the dispute, and Gerson & Hazard settled the commissions between them (folios 165, 166).

POINTS.

I.—A cross-bill was necessary. Daniell's Ch. Pr. 4 Am. ed., vol. 2, ch. 34, sec. 1, p. 1550 *n.* 2. Carnochan *v.* Christie, 11 Wheat. 440. The answer of the appellee to the cross-bill, denying all of its allegations and all fraud was positive evidence, and to be taken as true, unless disproved by two credible witnesses or one witness and sufficient corroborating circumstances. Gould *v.* Gould, 3 Story's R. 540. The appellee should not lose the effect of his answer by the omission of it from the Appeal Book. The opinion of the Court below refers to it.

II.—The appellant, not being able (even in a proper case) to have a rescission of the contract without a a cross-bill, the question of rescission is not open before this Court, there having been no appeal from the decree dismissing the cross-bill. Canter *v.* Am. Ins. Co. 3 Peters, cited page, 318.

III.—The evidence shows that the appellee has not committed any fraud in fact or in law.

IV.—It having been patent to the eyes of the appellant's intestate that the vessel drew more than three and a half feet of water when fully laden, he could not have a rescission of the contract on that ground, even if the appellee had falsely represented in this particular. Jennings *v.* Broughton, 5 De G. M. & G. 126. S. C. 17 Beav. 234. Dyer *v.* Hargrove, 10 Ves. 505. This applies also to the objection to the boiler.

V.—The appellant's intestate not having rested upon any representations on the part of the appellee, but having examined for himself with every facility for such examination afforded by the appellee, he would not be in a position to claim a rescission of the contract, even if the alleged representations were false. Clarke *v.* Mackintosh, 4 Giff. 134, pp. 155–158; citing to the point that *caveat emptor* does apply in such cases, Lord Thurlow in Lowndes *v.* Lane, 2 Cox 363, and Lord Holt in Dobell *v.* Stevens, 3 B. and C. 625. Judge Story also says: "If the other party does not trust to the misrepresentation, or if it was vague and inconclusive in its own nature, there is no reason for a Court of Equity to interfere to grant relief upon the ground of fraud." Eq. Jur. (10th Ed.) 194, § 191, and cases cited in note 2. In Trower *v.* Newcome, 3 Mer. 704, the printed particulars said: "A voidance of this preferment is likely to occur soon;" the auctioneer said at the sale, "that the living would be void on the death of a person aged eighty-two." It turned out that the incumbent was aged thirty-two, and expected to be

presented to another living when the incumbent of that living, aged eighty-two, should die. The Master of the Rolls held, that the representation in the printed particulars was so vague and indefinite, that it could not be noticed judicially. In the case at bar, Gerson said he could not tell her draft if he saw her on the dock, and referred to the captain. The captain said she drew three and a half feet light at ends, and four amidships. Robinson, H. B. Slaughter's friend, witness and expert, told him she drew too much water for the Chester River. Anderson, Slaughter's witness and expert, measured her at Slaughter's command, and told him she drew four feet six inches amidships. Crawford, having represented her draft, amidships, as four feet, said the water was rough, and her measurement could not be gotten exactly; meaning merely to vindicate himself for having said four feet. These varying statements made the whole series of representations as to draft, vague and indefinite, and the only way left to bind Gerson was by a warranty. All the witnesses told Slaughter she over-drew what he alleges in his answer was indispensable for his route, and the boat told him so herself, as she lay, unloaded, at the wharf.

VI.—This Court, in Smith *v.* Richards, 13 Peters (cited page 42), cites and approves Pickering *v.* Dowson, 4 Taunt. 779, and several similar cases, in the following words: "Now, it will be observed, that all these cases were cases of ships, where the thing that was the subject-matter of the contract, was in such

a situation, that the buyer had a full opportunity to inspect and examine the truth of the representation; and this we take to be the ground of the decision." In Pickering *v.* Dowson, it was held that prior representations were merged in the written contract, and parol evidence could not be given of them unless the defendants had been guilty of fraud, and fraud, where there was opportunity of inspection, was defined to be—not the falsity of the representations, but any artful prevention of the plaintiffs from discovering some fault which the defendants knew to exist, and misrepresented. The vendors showed the vendee a description of the boat which they had received from their vendors, mis-describing her as copper-fastened; but did not describe her as copper-fastened in their own bill of sale. The vendee examined her without interference by the vendors.

Morley v Clavering
29 Beav. 84

VI.—The appellee was not a steamboat builder or dealer in steamboats. Even if it was indispensable, then, that a boat for the purpose in question should draw only three and a half feet when fully laden, and his boat drew more: neither the unfitness of the boat for that purpose nor his knowledge of it, would suffice to avoid the sale, his warranty not reaching the defect. Dickson *v.* Zizinia, 10 C. B. 602. It is where a dealer or manufacturer contracts to supply an article which he deals in or manufactures, to be applied to a particular purpose, so that the buyer is compelled to trust in and depend upon the judgment and skill of the seller, that the law raises an implied warranty that the article shall be

fit for the purpose; Brown *v.* Edgington, 2 Man. & G. 279; Jones *v.* Bright (the copper sheathing case) 5 Bing. 533. Counsel attempted to extend the principle of Jones *v.* Bright, in Mallan *v.* Radlopp, 17 C. B. (N. S.), 588, but Justice Byles interrupted by saying, "There the defendant was the manufacturer of the article." But even in the case of a manufacturer, if he supplies the precise article ordered, he is not affected by its unfitness for the purpose for which the purchaser actually stated that he wanted it. Chanter *v.* Hopkins, 4 M. & W., 399; Ollivant *v.* Bayley, 5 Q. B., 288. So a commission merchant who sold a well known tobacco by its proper market brand, in its original packages, was held not liable for latent defects, the brand being what the purchaser ordered and wanted. Hyatt *v.* Boyle, 5 Gill & J., 110. So where the goods are in *esse* and the buyer may or does inspect them, there is no implied warranty that they are merchantable; Parkinson *v.* Lee, 2 East, 214; Emmerton *v.* Matthews, 7 H. & N., 586; 31 N. J. (Ex.), 139; the rule being that the buyer has the opportunity of exercising his own judgment and if his inspection is unsatisfactory, or if he distrusts his judgment, he may exact a warranty, or decline the purchase. In Shepherd *v* Pybus, 2 Man. & G., 868, the turning point was that the buyer had not seen the boat while building but only after it was built, and relied upon the judgment and skill of the builder, who was the seller, that it was reasonably fit for use. Jones *v.* Just, 3 L. R. (Q. B.) 197, 203, 207, (which classifies and distinguishes most of the above cases), turned upon the point, that the vendor was a dealer in Manilla hemp, who was either connected with, or had recourse against the shippers at Singapore; that the buyer

bought for sale, to arrive, shipped at Singapore, and had no oportunity of inspection, and could exercise *no judgment of his own;* that he must be taken to have trusted *to the judgment, &c. of the seller*, that the article should be merchantable when shipped at Singapore; whereas, in fact, it was not, having been wetted with salt water, as if from shipwreck, on the voyage from Manilla to Singapore, and unpacked and dried, and re-packed before shipment from the latter port. In Jones *v.* Just, this impossibility of inspection and of the buyer exercising his own judgment, and his necessary trusting to the judgment of seller who is an expert and dealing in the course of his regular business, is said to be "at the root of the doctrine of implied warranty." There is nothing, therefore, in the present case to relieve it from the maxim, *caveat emptor;* Dickson *v.* Zizinia (*supra*), reiterates the familiar illustration, that if one buys a horse, warranted sound, saying he wants it for a lady to ride, the sale is good, if the horse be sound, though unfit for the particular purpose for which it was purchased.

VIII.—There is a class of cases w ere the sale is held never to have taken place, because the buyer did not get the identical article contracted for. These are the cases usually cited under the head of "mistake." But sales are not defeated upon the pretext or fact even, that the buyer has been mistaken in some quality of the article. If that could defeat a sale on the ground of mistake, Chanter *v.* Hopkins, and Ollivant *v.* Bayley *(supra)*, would have been decided the other way.

IX.—The text in Story's Eq. Jur. [illegible] "wholly immaterial" — gc cited for it, Wright *v.* 321; the language of whic The context of the entire no application here, and t latter clause, such as Ain 21, following Neville *v.* Wilkinson, 1 Brown's C. C., 543, and also the case in this Court, Phil., B. & W. R. R. Co. *v.* Howard, 13 How., 307, are likewise inapplicable, being simply cases of equitable estoppel, arising out of matters in deeds and of stipulation.

X.—Willard *v.* Taylor, 8 Wall., 564, cited in the appellant's brief, was a bill for specific performance. The defendant denied the contract, by setting up a contemporaneous parol agreement not to enforce it. This court held the evidence of the agreement to be inadmissible, and decreed performance; but required the complainant to pay the consideration in gold and silver coin. The ruling of the Court as to parol evidence, is all the bearing that case has upon the present, and is in favor of the appellee.

XI.—Not only was the appellee no steamboat man, protesting that he could not tell the draught of the boat if he saw her on the dock, but the appellant and his intestate were both steamboat men. In the report

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IX.—The text in Story's Eq. Jur., Vol. I., § 193—"wholly immaterial"—goes beyond the authority cited for it, Wright *v.* Snowe, 2 De G. & S., 321; the language of which is, "often immaterial." The context of the entire section shows it to have no application here, and the authorities cited to the latter clause, such as Ainslie *v.* Medlicott, 9 Ves., 21, following Neville *v.* Wilkinson, 1 Brown's C. C., 543, and also the case in this Court, Phil., B. & W. R. R. Co. *v.* Howard, 13 How., 307, are likewise inapplicable, being simply cases of equitable estoppel, arising out of matters in deeds and of stipulation.

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Benjn on Sales
344, 345

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of Jennings *v.* Broughton, in 7 Beav., 234, it was sufficient for Sir John Romilly, M. R., that the same sources of information were open to the plaintiffs as to the defendants; and that the defendants apparently knew as little of the mine as the plaintiff. But here, the party seeking a rescissien, knew all about steamboats and had all sources of information open to him, while his adversary had no knowledge.

XII.—In the same case on appeal, 5 De G., M. & G., 126, Ld. Ch. J. Turner asked: "If the relief prayed by this Bill be granted, how are the defendants to be compensated for the loss which they may have sustained by not having been placed in a position to sell to other persons, who might well have been content to abide the risk from which the plaintiff apphars to shrink?"

XIII. In Atwood *v.* Small, 6 Cl. & Finn. 232, rescission of sale was refused in a case not so strong as the present. Lord Brougham, p. 465, adverted to the interest of the vendees to "get rid of the bargain by picking holes in the statements and setting aside the contract." The Earl of Devon said, pp. 335, 336, "If a party engaged in negotiating for a purchase of property, and having employed competent agents to inspect that property, either does not call for or obtain any report from those agents, or having got such report, does not act upon it, I think that he cannot

afterwards turn round and say that he has been deceived by placing reliance upon the statements of the vendor, instead of availing himself of the means of information that were open to him." See also, p. 338, as to *Caaeat Emptor*, and p. 342, as to relying on their own agents.

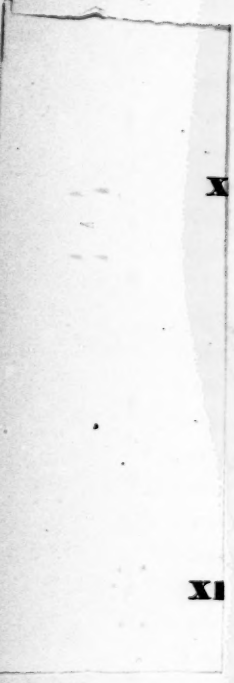
B. W. HUNTINGTON,
Of Counsel for Appellee.

XIV Slaughter's telling Hazard to get him an offer (f. 163) & on May 10th demanding the earnings of the boat between the time of her purchase and withdrawal from the N. Y. route, was acting upon the contract & treating it as binding.

Campbell v Fleming 1 A. & E. 40
Selway v Fogg 5 M. & W. 86

XV Appellant must be limited to the grounds stated in the demand for rescision of the contract, served by his intestate's attorneys.

1 Phil. Ev. (C. & H. 4 Ed.) 801 Et seq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THE UNITED STATES.

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11 Pa 53-63

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29 Preston 64
4 Gibson 134
5 2 B - 404
4-2-B- 197
2 2 B 207-

11 Bain & Wright

11 Casey 23
29 L.J. Ash- 124
17 Lucas 633
5 Blackwell 154
Stony Ey-jun-
Ann ——— mile 349